

United States District Court
for the District of Utah

Request and Order to Withdraw Warrant./Early Termination

FILED

U.S. DISTRICT COURT

2005 FEB -2 A 9 35

Name of Offender: **Richard Meranda**

Docket Number: **2:01-CR-00027-001-DS**

Name of Sentencing Judicial Officer: **Honorable David Sam**

RECEIVED

Date of Original Sentence: **November 13, 2001**

FEB 02 2005

Original Offense: **Restricted Person in Possession of a Firearm**

Original Sentence: **20 Months BOP Custody/24 Months Supervised Release**

OFFICE OF JUDICIAL
DAVID SAM

Type of Supervision: **Supervised Release**

Supervision Began: **June 5, 2003**

PETITIONING THE COURT

☒ To withdraw the warrant issued May 25, 2004, and terminate the term of supervised release unsuccessfully

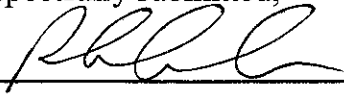
CAUSE

On May 25, 2004, a Warrant for Arrest was issued in connection with technical violations committed by the defendant. Subsequent to the federal warrant being issued, the defendant was convicted in state court on several new law violations including Driving on Revoked License, No Proof of Insurance, License Plate/Registration Violation, three counts of Forgery, two counts of Burglary, Theft, Criminal Mischief, and Joyriding. All of the defendant's felony sentences of imprisonment are for an indeterminate term not to exceed 5 years to run concurrent with all other state sentences. The defendant is currently serving those sentences in the Utah State Prison.

Based upon the punishment received by state authorities for new law violations, it is the recommendation of the United States Probation Office that the interests of justice would not be served by an additional term of confinement for essentially the same criminal behavior. Assistant United States Attorney Felice Viti was contacted, and he indicated that he would recommend the defendant be punished through the federal Court in addition to the state sentence already imposed; however, he will concur with the recommendation of the United States Probation Office.


54

It is the recommendation of the United States Probation Office that the Warrant for Arrest be withdrawn and the defendant's term of supervised release be terminated unsuccessfully.

Respectfully submitted,
by 
Richard G. Law
United States Probation Officer
January 25, 2005

THE COURT ORDERS:

- ☒ That the warrant issued May 25, 2004, be
withdrawn and the term of supervised release
be terminated unsuccessfully
- ☐ No action
- ☐ Other


Honorable David Sam
Senior United States District Judge

Date: 2/2/05

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:01-cr-00027

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Felice J. Viti, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

FEB 02 2005
MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

RECEIVED CLERK

JAN 2 2005

U.S. DISTRICT COURT

Judge Thomas Greene

HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff's claims and all claims that could have been brought are dismissed with prejudice, each party to bear their own costs and attorneys fees.

DATED this 2 day of ~~January~~ ^{February}, 2005.

BY THE COURT

By J. Thomas Greene
Judge Thomas Greene
United States District Court for the District of
Utah, Central Division

APPROVED AS TO FORM

By PRB
Patrick Bergin
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of January, 2005 a true and correct copy of the foregoing **Order of Dismissal with Prejudice** was served by the method indicated below, to the following:

Patrick R. Bergin
Attorney for Plaintiff
10 West 300 South, Suite 500
Salt Lake City, Utah 84101

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

[Signature]

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00530

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Patrick R. Bergin, Esq.
10 W 300 S STE 808
SALT LAKE CITY, UT 84101

Paul M. Belnap, Esq.
STRONG & HANNI
3 TRIAD CTR STE 500
SALT LAKE CITY, UT 84180
EMAIL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Central Division for the District of Utah

CLERK, U.S. DISTRICT COURT

2005 FEB -2 P 4: 25

BRIAN ADAMS,

Plaintiff,

vs.

HERCULES MANUFACTURING,
INC., et al,

Defendant.

SCHEDULING ORDER

Case No. 2:04CV396 DB

District Judge Dee Benson

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Stipulated Amendment filed by counsel. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

STIPULATION TO AMEND SCHEDULING ORDER IS GRANTED.

****ALL TIMES 4:30 PM UNLESS INDICATED****

- | 1. PRELIMINARY MATTERS | <u>DATE</u> |
|---|-------------|
| Nature of claim(s) and any affirmative defenses: | |
| a. Was Rule 26(f)(1) Conference held? | <u>N/a</u> |
| b. Has Attorney Planning Meeting Form been submitted? | <u>Yes</u> |
| c. Was 26(a)(1) initial disclosure completed? | <u>N/a</u> |
-
- | 2. DISCOVERY LIMITATIONS | <u>NUMBER</u> |
|---|---------------|
| a. Maximum Number of Depositions by Plaintiff(s) | <u>10</u> |
| b. Maximum Number of Depositions by Defendant(s) | <u>10</u> |
| c. Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. Maximum Interrogatories by any Party to any Party | <u>25</u> |
| e. Maximum requests for admissions by any Party to any Party | <u>50</u> |
| f. Maximum requests for production by any Party to any Party | |

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DATE

3. AMENDMENT OF PLEADINGS/ADDING PARTIES²

- a. Last Day to File Motion to Amend Pleadings 4/15/05
- b. Last Day to File Motion to Add Parties 4/15/05

4. RULE 26(a)(2) REPORTS FROM EXPERTS³

- a. Plaintiff 8/1/05
- b. Defendant 10/3/05
- c. Counter Reports

5. OTHER DEADLINES

- a. Discovery to be completed by:
 - Fact discovery 6/15/05
 - Expert discovery 11/15/05
- b. *(optional)* Final date for supplementation of disclosures and discovery under Rule 26 (e)
- c. Deadline for filing dispositive or potentially dispositive motions 12/15/05

6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION

- a. Referral to Court-Annexed Mediation no
- b. Referral to Court-Annexed Arbitration no
- c. Evaluate case for Settlement/ADR on
- d. Settlement probability:

7. TRIAL AND PREPARATION FOR TRIAL:

- a. Rule 26(a)(3) Pretrial Disclosures⁴
 - Plaintiffs 3/20/06
 - Defendants 4/3/06
- b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)

			<u>DATE</u>
c.	Special Attorney Conference ⁵ on or before		4/17/06
d.	Settlement Conference ⁶ on or before		4/17/06
e.	Final Pretrial Conference	2:30PM	5/2/06
f.	Trial	<u>Length</u>	<u>Time</u> <u>Date</u>
	i. Bench Trial		
	ii. Jury Trial	<u>5 days</u>	<u>8:30AM</u> <u>5/15/06</u>

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 2 day of February, 2005.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. The identity of experts and the subject of their testimony shall be disclosed as soon as an expert is retained or, in the case of an employee-expert, as soon as directed to prepare a report.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

I:\LAW\IPT\2005\Adams v. Hercules 2 04 cv 396 DB 020204.wpd

United States District Court
for the
District of Utah
February 3, 2005

kvs

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00396

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Roger W. Griffin, Esq.
GREGORY BARTON & SWAPP
2975 W EXECUTIVE PKWY STE 300
LEHI, UT 84043-9627

Kara L. Pettit, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

Peter H Christensen, Esq.
STRONG & HANNI
3 TRIAD CTR STE 500
SALT LAKE CITY, UT 84180
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -2 P 2:37

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH
FOR THE DISTRICT OF UTAH BY: CA
DEPUTY CLERK

CLAUDIA SANBORN

Plaintiff(s),

vs.

AMERICAN LENDING NETWORK, et al.

Defendant(s).

**NOTICE REGARDING COURTESY
COPIES**

Case No: 2:03-CV-610 DB

District Judge Dee Benson

Magistrate Judge David Nuffer

This case has been referred to the magistrate judge under 28 U.S.C. § 636(b). Courtesy copies provided for the magistrate judge through the clerk's office in the manner provided in DUCivR 5-1(a)(3)¹ may not be available to the magistrate judge for several days after filing due to docketing and circulation procedures.

To provide the magistrate judge with more prompt access to courtesy copies of materials filed, the materials should be provided in the conventional manner, as the Rule directs **and** by

(a) email to utmj_nuffer@utd.uscourts.gov² **or**

(b) fax to 801 526 1159 **or**

(c) delivery to chambers at Room 483, U.S. Courthouse, 350 South Main Street,
Salt Lake City, Utah.

¹ "At the time of filing, the clerk will require: . . . (3) the original and *two* (2) copies of all pleadings, motions, and other papers pertaining to a matter that has been referred to a magistrate judge."

² WordPerfect or text-based PDF format is preferred. Microsoft Word format and PDF documents created by scanning are also acceptable when such formats are necessary.

32

In the event copies are not provided in one of these three accelerated methods, materials may be delayed. Additional information is at <http://www.utd.uscourts.gov/judges/nuffer.html>.

February 2, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'David Nuffer', written over a horizontal line.

David Nuffer
U.S. Magistrate Judge

United States District Court
for the
District of Utah
February 3, 2005

kvs

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00610

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Mr. Denver C. Snuffer Jr., Esq.
NELSON SNUFFER DAHLE & POULSEN
10885 S STATE ST
SANDY, UT 84070
JFAX 9,5761960

Richard A. Rappaport, Esq.
COHNE RAPPAPORT & SEGAL
PO BOX 11008
SALT LAKE CITY, UT 84147-0008
JFAX 9,3551813

Mr. David B Oliver, Esq.
180 S 300 W, #210
Salt Lake City, UT 84101-1218
EMAIL

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -2 A 10:30

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION
DEPUTY CLERK

JOHN D. SORGE,

Plaintiff,

vs.

MARK L. SHURTLEFF, et al.,

Defendant(s).

ORDER

Case No: 2:03-CV-573 DB

District Judge Dee Benson

IT IS HEREBY ORDERED that the Order of Reference to the magistrate judge entered by Judge Tena Campbell on September 16, 2003 is withdrawn.

DATED this 15th day of February, 2005.

BY THE COURT:



Dee Benson
United States District Judge

61

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00573

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Bless S. Young, Esq.
UTAH ATTORNEY GENERAL'S OFFICE
LITIGATION UNIT
160 E 300 S 6TH FL
PO BOX 140856
SALT LAKE CITY, UT 84114-0856
EMAIL

John D. Sorge, Esq.
WELLS FARGO CTR BLDG
299 S MAIN ST 13TH FL
SALT LAKE CITY, UT 84111
EMAIL

FILED
CLERK U.S. DISTRICT COURT
JAN 13 -2 A 10:30
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CYNDI STREET,

Defendant.

BY: _____
DEPUTY CLERK
**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 2:04-CR-0153 DB

Judge Dee Benson

Before the Court is the Report and Recommendation of magistrate judge David Nuffer, issued November 8, 2004. At issue are two motions to suppress evidence filed by Defendant. Those motions seek suppression of 1) statements made by Defendant under interrogation because Defendant argues she did not voluntarily waive her *Miranda* rights, and 2) evidence seized under a search warrant that was allegedly overbroad. The magistrate judge recommended that both motions be denied, and the Defendant filed an objection to that recommendation.

Having reviewed all relevant materials, including the reasoning set forth in the magistrate judge's Report and Recommendation, the Court agrees with the report. Accordingly, the Court ADOPTS the magistrate judge's Report and Recommendation in its entirety, including the findings of fact and legal analysis given by the magistrate judge in the Report and Recommendation.

IT IS SO ORDERED.

DATED this 31st day of January, 2005.


Dee Benson
United States District Judge

213

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00153

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Vernon G. Stejskal, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
348 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

Bel-Ami J. de Montreux, Esq.
180 S 300 W #350
SALT LAKE CITY, UT 84101
EMAIL

Ms. Mary C. Corporon, Esq.
CORPORON & WILLIAMS PC
808 E SOUTH TEMPLE
SALT LAKE CITY, UT 84102
EMAIL

Joseph F. Orifici, Esq.
4625 S 2300 E STE 211
HOLLADAY, UT 84117
EMAIL

Vanessa M. Ramos-Smith, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

David V. Finlayson, Esq.
43 E 400 S
SALT LAKE CITY, UT 84111
EMAIL

Mr. Michael W Jaenish, Esq.
150 S 600 E #5C
SALT LAKE CITY, UT 84102
EMAIL

United States Marshal Service

DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -2 A 10:30

CLERK, U.S. DISTRICT COURT

BY: _____
DEPUTY CLERK

Joseph Jardine, USB No. 8889
JARDINE LAW OFFICES
39 Exchange Place, Suite 100
Salt Lake City, Utah 84111
Telephone: 801/350-3506
Fax: 801/534-1948

Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Fortino Castillo-Salazar,

Defendant.

**ORDER ON MOTION FOR
EXTENSION OF TIME WITHIN
WHICH TO FILE MOTIONS**

Case No. 204-CR-525

Judge: Benson

THIS COURT having reviewed Defendant's Motion for an Extension of Time Within Which to File Motions, hereby ORDERS that counsel be allowed until February 25th, 2005, at 5:00 p.m. to file pretrial motions.

DATED this 18th day of February, 2005.

BY THE COURT

Dee Benson

Judge Benson
U.S. District Court Judge

45

MAILING CERTIFICATE FOR COURT CLERK

The undersigned hereby certifies that on September 3rd, 2003, a true and correct copy of the Order on Motion for an Extension of Time Within Which to File Motions was served by hand delivery or United States First Class Mail, postage prepaid, addressed to the following:

Colleen K. Coebergh
Prosecuting Attorney
348 East South Temple 3rd Floor
Salt Lake City, UT 84111

Joseph Jardine
Attorney at Law
39 Exchange Place, Suite 100
Salt Lake City, Utah 84111

Court Clerk

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00525

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Colleen K. Coebergh, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
348 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

Joseph Jardine, Esq.
JARDINE LAW OFFICES
39 EXCHANGE PLACE STE 100
SALT LAKE CITY, UT 84111
JFAX 9,7463508

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

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RECEIVED CLERK

FILED
CLERK, U.S. DISTRICT COURT

JAN 27 2005

JAN 26 2005

2005 FEB -2 A 9:06

BROCKE C. WELLS
U.S. MAGISTRATE

U.S. DISTRICT COURT

PAUL M. WARNER, United States Attorney (#3639)
JAN N. ALLRED, Assistant United States Attorney (#4741)
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111-1506
Telephone (801) 524-5682

RECEIVED

JAN 31 2005

SAMUEL ALBA
U.S. MAGISTRATE

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	)	ORDER TO SHOW CAUSE
)	
Plaintiff,)	
	)	Case No. 2:98CR00130-001
vs.)	
	)	Honorable Dee V. Benson
JOHN VACCARO,)	
)	
Defendant,)	

TO: John Vaccaro

It appears from the records of this Court that on December 9, 1998, a judgment was entered commanding you to pay restitution of \$2,050.00 in minimum monthly installments of \$70.00.

Based upon the United States' Motion for Order to Show Cause, with its supporting Memorandum and Affidavit, it appears that you have failed to comply with the Court's order.

IT IS NOW ORDERED THEREFOR that you appear in person before the Court on the 17th day of February, 2005, at 9:30 a.m. in Room 248, United States Courthouse, 350 South Main Street, Salt

Lake City, Utah, to show cause why you should not be punished by imprisonment or fine for contempt of court for failure to obey a lawful order of this court.

DATED this 21st day of June, 2005.

BY THE COURT:



Magistrate Judge
United States District Court

430.WP

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:98-cr-00130

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Mr. Mark K Vincent, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Mr. Mark R Moffat, Esq.
BROWN BRADSHAW & MOFFIT
10 W BROADWAY STE 210
SALT LAKE CITY, UT 84101
JFAX 9,5325298

DAVID J. HOLDSWORTH (4052)
Attorney for Plaintiff
9125 South Monroe Plaza Way, Suite C
Sandy, UT 84070
Telephone (801) 352-7701
Facsimile (801) 567-9960

FILED RECEIVED CLERK
CLERK, U.S. DISTRICT COURT
2005 FEB -2 2:06
U.S. DISTRICT COURT
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

ISABEL SHARPE,

Plaintiff,

v.

JOHN E. POTTER, Postmaster General
of the United States Postal Service,

Defendant.

**ORDER GRANTING
EXTENSION OF TIME FOR
PLAINTIFF TO FILE
MEMORANDUM IN OPPOSITION**

Civil No.: 2:03CV00817DB

Honorable Dee Benson

Based on the Stipulation and Motion to Extend Time for Plaintiff to file Memorandum in Opposition and good cause appearing therefor, Plaintiff Isabel Sharpe, may have until 9:00 a.m. February 2, 2005 to file a Memorandum in Opposition to Defendant's Motion for Summary Judgment.

SO ORDERED.

DATED this 2 day of February, 2005.

21

BY THE COURT:

A handwritten signature in black ink that reads "Dee Benson". The signature is written in a cursive style with a long horizontal flourish at the end.

Hon. Dee Benson
U.S. District Court

D:\Sharpelsabel\ordext-2.wpd

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00817

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. David J Holdsworth, Esq.
9125 S MONROE PLAZA WAY STE C
SANDY, UT 84070
JFAX 9,5679960

Jeannette F. Swent, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

PAUL M. WARNER, United States Attorney (No. 3389)
MARK Y. HIRATA, Assistant United States Attorney (No. 5087)
KATHLEEN McGOVERN, Special Assistant United States Attorney
Department of Justice - Criminal Division - Fraud Section
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 524-5682

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB - 2 P 2:06
DISTRICT OF UTAH
RECEIVED
BY
DEPUTY CLERK
FEB - 1 2005
JUDGE'S COPY

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, : Case No. 2:01-CR-038DVB
Plaintiff, :
v. : UNITED STATES' MOTION FOR
OZY JAY NEELEY, et al., : EXTENSION OF TIME
Defendants. : TO FILE OPPOSITIONS TO
: MOTIONS FOR NEW TRIAL
: Judge Dee V. Benson

The United States of America, by and through Assistant United States Attorney Mark Y. Hirata, moves this Court for an order granting the United States an extension of time up to and including March 18, 2005 to file oppositions to the motions for new trial filed by defendants Chad Merica, Paul Young, and Kevin Crockett (joined by defendants Ozy Jay Neeley and Robert Dodembier).

The grounds for this motion are that the United States requires time well beyond the amount allotted under the local rules to review and analyze the complex issues raised in the motions, review the voluminous trial transcript and other relevant portions of the record, and

conduct applicable legal research. Counsel for each of the defendants have been contacted and have confirmed they have no objections to the instant motion.

DATED this 18th day of February, 2005.

SO ORDERED

Dee Benson

DEE BENSON
United States District Judge

PAUL M. WARNER
United States Attorney

Mark Y. Hirata

MARK Y. HIRATA
KATHLEEN McGOVERN
Assistant United States Attorneys

Date 2/1/05

Certificate of Service

I certify that on the 1st day of February, 2005, I caused to be sent, via first class mail, postage prepaid, a copy of the foregoing UNITED STATES' MOTION FOR EXTENSION OF TIME TO FILE OPPOSITIONS TO MOTIONS FOR NEW TRIAL to the following:

Jerome H. Mooney, Esq. Counsel for Ozy Jay Neeley 50 West Broadway, Suite 100 Salt Lake City, UT 84101	Robert Alan Jones, Esq. Co-Counsel for Chad Merica 1061 East Flamingo Road, Suite 7 Las Vegas, NV 89119	Edwin S. Wall, Esq. Counsel for Paul Young 8 East Broadway, Suite 500 Salt Lake City, UT 84111
Rebecca A. Pescadore, Esq. Counsel for Kevin Crockett 12357 South 450 East, Ste. 1 Draper, UT 84020	Randall T. Gaither, Esq. Co-Counsel for Chad Merica 159 West 300 South, #105 Salt Lake City, UT 84101	Michael W. Jaenish, Esq. Counsel for Robert Dodenbier 150 South 600 East, Suite 5C Salt Lake City, UT 84102

Valerie Maxwell

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:01-cr-00038

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Michael W Jaenish, Esq.
150 S 600 E #5C
SALT LAKE CITY, UT 84102
EMAIL

US Probation
DISTRICT OF UTAH
/
EMAIL

United States Marshal Service
DISTRICT OF UTAH
/
EMAIL

Gregory G. Skordas, Esq.
SKORDAS CASTON & MORGAN LLC
9 EXCHANGE PL STE 1104
BOSTON BLDG
SALT LAKE CITY, UT 84111
EMAIL

Mr. Richard G MacDougall, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

Crystal D. Sluyter, Esq.
18708 HIGHWAY 145
DEOLORS, CO 81323-9705

Mr. Randall T Gaither, Esq.
159 W 300 S #105
SALT LAKE CITY, UT 84101
EMAIL

Robert Alan Jones, Esq.
RAJ LIMITED PC
1061 E FLAMINGO RD STE 7

LAS VEGAS, NV 89119

Rebecca A. Pescador, Esq.
4625 GORDON DR
BOULDER, CO 80305-6734
EMAIL

Mr. Edwin S. Wall, Esq.
WALL LAW OFFICES
8 E BROADWAY STE 500
SALT LAKE CITY, UT 84111
EMAIL

Mr. Jerome H Mooney, Esq.
MOONEY LAW FIRM
50 W BROADWAY STE 100
SALT LAKE CITY, UT 84101
EMAIL

Mr. Stewart C. Walz, Esq.
US ATTORNEY'S OFFICE
/
EMAIL

Mr. Mark Y. Hirata, Esq.
US ATTORNEY'S OFFICE
/
EMAIL

FILED
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Central Division for the District of Utah 2005 FEB -2 P 4:32

JODI NIX,

Plaintiff,

vs.

PARK CITY MUNICIPAL
CORPORATION,

Defendant.

AMENDED SCHEDULING ORDER

Case No. 2:04-cv-01197 TS

District Judge Ted Stewart

Magistrate Judge Brooke C. Wells

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel, and entered a Scheduling Order which is now amended to correct the trial date. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for 2/16/05, at 1:30PM is VACATED.

****ALL TIMES 4:30 PM UNLESS INDICATED****

- | 1. PRELIMINARY MATTERS | <u>DATE</u> |
|---|----------------|
| Nature of claim(s) and any affirmative defenses: | |
| a. Was Rule 26(f)(1) Conference held? | <u>1/20/05</u> |
| b. Has Attorney Planning Meeting Form been submitted? | <u>Yes</u> |
| c. Was 26(a)(1) initial disclosure completed? | <u>3/15/05</u> |
-
- | 2. DISCOVERY LIMITATIONS | <u>NUMBER</u> |
|---|---------------|
| a. Maximum Number of Depositions by Plaintiff(s) | <u>10</u> |
| b. Maximum Number of Depositions by Defendant(s) | <u>10</u> |
| c. Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. Maximum Interrogatories by any Party to any Party | <u>50</u> |

10

- e. Maximum requests for admissions by any Party to any Party
- f. Maximum requests for production by any Party to any Party

DATE

3. **AMENDMENT OF PLEADINGS/ADDING PARTIES²**

- a. Last Day to File Motion to Amend Pleadings 7/1/05
- b. Last Day to File Motion to Add Parties 7/1/05

4. **RULE 26(a)(2) REPORTS FROM EXPERTS³**

- a. Plaintiff 9/16/05
- b. Defendant 10/28/05
- c. Counter Reports

5. **OTHER DEADLINES**

- a. Discovery to be completed by:
 - Fact discovery 2/1/06
 - Expert discovery 2/1/06
- b. *(optional)* Final date for supplementation of disclosures and discovery under Rule 26 (e)
- c. Deadline for filing dispositive or potentially dispositive motions 4/1/06

6. **SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION**

- a. Referral to Court-Annexed Mediation no
- b. Referral to Court-Annexed Arbitration no
- c. Evaluate case for Settlement/ADR on
- d. Settlement probability:

7. **TRIAL AND PREPARATION FOR TRIAL:**

- a. Rule 26(a)(3) Pretrial Disclosures⁴
 - Plaintiffs 7/10/06
 - Defendants 7/24/06

- b. **Objections to Rule 26(a)(3) Disclosures**
(if different than 14 days provided in Rule)

DATE

- c. **Special Attorney Conference⁵ on or before** 8/7/06
- d. **Settlement Conference⁶ on or before** 8/7/06
- e. **Final Pretrial Conference** 2:30PM 8/21/06
- f. **Trial** Length Time Date
- i. Bench Trial
- ii. Jury Trial 3 days 8:30AM 9/5/06

8. **OTHER MATTERS:**

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 2 day of July, 2005.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR 10-1(a).
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. The identity of experts and the subject of their testimony shall be disclosed as soon as an expert is retained or, in the case of an employee-expert, as soon as directed to prepare a report.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

I:\LAW\IPT\2005\Nix v. Park City Municipal 2 04 cv 1197 012805.wpd

jmr

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01197

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. David B Thompson, Esq.
MILLER VANCE & THOMPSON
PO BOX 682800
2200 N PARK AVE STE 10200
PARK CITY, UT 84068
EMAIL

Camille N. Johnson, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
Central Division for the District of Utah

FILED
CLERK OF DISTRICT COURT
FEB -2 P 4: 26

FILED
CLERK OF DISTRICT COURT

JOSE H. CUBAS ,

Plaintiff,

vs.

SKY CHEFS, INC.,

Defendant.

SCHEDULING ORDER

Case No. 2:04-CV-01099 TS

District Judge Ted Stewart

Magistrate Judge Brooke C. Wells

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for 2/16/05, at 1:30PM is VACATED.

****ALL TIMES 4:30 PM UNLESS INDICATED****

- | 1. | PRELIMINARY MATTERS | <u>DATE</u> |
|----|--|----------------|
| | Nature of claim(s) and any affirmative defenses: | |
| a. | Was Rule 26(f)(1) Conference held? | <u>1/17/05</u> |
| b. | Has Attorney Planning Meeting Form been submitted? | <u>Yes</u> |
| c. | Was 26(a)(1) initial disclosure completed? | <u>2/4/05</u> |
-
- | 2. | DISCOVERY LIMITATIONS | <u>NUMBER</u> |
|----|--|----------------|
| a. | Maximum Number of Depositions by Plaintiff(s) | <u>10 oral</u> |
| b. | Maximum Number of Depositions by Defendant(s) | <u>10 oral</u> |
| c. | Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. | Maximum Interrogatories by any Party to any Party | <u>25</u> |
| e. | Maximum requests for admissions by any Party to any Party | <u>50</u> |
| f. | Maximum requests for production by any Party to any Party | |

10

- | | <u>DATE</u> |
|---|-----------------|
| 3. AMENDMENT OF PLEADINGS/ADDING PARTIES² | |
| a. Last Day to File Motion to Amend Pleadings | <u>10/24/05</u> |
| b. Last Day to File Motion to Add Parties | <u>7/29/05</u> |
| 4. RULE 26(a)(2) REPORTS FROM EXPERTS³ | |
| a. Plaintiff | <u>11/23/05</u> |
| b. Defendant | <u>11/23/05</u> |
| c. Counter Reports | <u>12/30/05</u> |
| 5. OTHER DEADLINES | |
| a. Discovery to be completed by: | |
| Fact discovery | <u>10/24/05</u> |
| Expert discovery | <u>1/30/05</u> |
| b. (optional) Final date for supplementation of disclosures and discovery under Rule 26 (e) | |
| c. Deadline for filing dispositive or potentially dispositive motions | <u>11/28/05</u> |
| 6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION | |
| a. Referral to Court-Annexed Mediation | <u>no</u> |
| b. Referral to Court-Annexed Arbitration | <u>no</u> |
| c. Evaluate case for Settlement/ADR on | |
| d. Settlement probability: | |
| 7. TRIAL AND PREPARATION FOR TRIAL: | |
| a. Rule 26(a)(3) Pretrial Disclosures ⁴ | |
| Plaintiffs | 3/6/06 |
| Defendants | 3/20/06 |
| b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule) | |

			<u>DATE</u>
c.	Special Attorney Conference ⁵ on or before		4/3/06
d.	Settlement Conference ⁶ on or before		4/3/06
e.	Final Pretrial Conference	3:00PM	4/17/06
f.	Trial	<u>Length</u>	<u>Time</u> <u>Date</u>
	i. Bench Trial	<u>5 days</u>	<u>8:30AM</u> <u>5/1/05</u>
	ii. Jury Trial		

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 2 day of February, 2005.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. The identity of experts and the subject of their testimony shall be disclosed as soon as an expert is retained or, in the case of an employee-expert, as soon as directed to prepare a report.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

I:\LAW\IPT\2005\Cubas v. Sky Chefs 2 04 cv 1099 TS 020204.wpd

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01099

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Stanley J. Preston, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

Mr. Derek Langton, Esq.
PARSONS BEHLE & LATIMER
201 S MAIN ST STE 1800
PO BOX 45898
SALT LAKE CITY, UT 84145-0898
EMAIL

Gary S. Kaplan, Esq.
SEYFARTH SHAW
55 E MONROE ST STE 4200
CHICAGO, IL 60603
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -2 P 3:33

DISTRICT OF UTAH

BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

NORTHERN DIVISION

SHANE T. PAYNE AND
CARMA PAYNE,

Plaintiffs.

vs.

HOUSEHOLD INTERNATIONAL,
INC., a Delaware corporation, and
BENEFICIAL MORTGAGE OF
UTAH, a Utah corporation,

Defendants.

Case No. 1:04-CV-56 TS


**ORDER GRANTING MOTION FOR
LEAVE TO AMEND COMPLAINT**

This matter is before the Court on Plaintiffs' Motion for Leave to Amend Complaint. The Court having considered said motion, no objection having been filed thereto, and good cause appearing, Plaintiffs' Motion for Leave to Amend Complaint is HEREBY GRANTED.

Plaintiffs are instructed to file their Amended Complaint with the Clerk of this Court and serve the same upon counsel, pursuant to the Federal Rules of Civil Procedure.

DATED this 31 day of January, 2004.

BY THE COURT:



SAMUEL ALBA

United States Magistrate Judge

16

jmr

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00056

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

M. Darin Hammond, Esq.
SMITH KNOWLES & HAMILTON
4723 HARRISON BLVD STE 200
OGDEN, UT 84403
EMAIL

Mr. Bryan W Cannon, Esq.
8619 S SANDY PKWY
BLDG A STE 111
SANDY, UT 84070

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -21 P 3:35

RECEIVED CLERK

DISTRICT OF UTAH

JAN 20 2005

U.S. DISTRICT COURT

Order submitted by:

PAUL M. WARNER, United States Attorney (#3389)
JAN ALLRED, Assistant United States Attorney (#4741)
Office of the United States Attorney
185 South State Street, Suite #400
Salt Lake City, Utah 84111
Telephone: (801) 524-5682

Attorneys for the Defendant

RECEIVED

JAN 25 2005

SAMUEL ALBA
U.S. MAGISTRATE

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, NORTHERN DIVISION

WAYNE DODGE,

:

1:04CV00150 TS

Plaintiff,

:

**ORDER FOR ENLARGEMENT
OF TIME**

vs.

:

JAMES G. ROCHE, Secretary of the
United States Department of the Air Force,

:

Hon. Ted Stewart
Magistrate Judge Samuel Alba

Defendant.

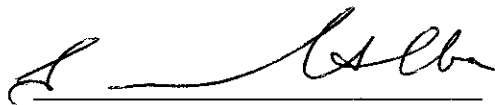
The above matter came before the court on Defendant's Motion for Enlargement of Time.
Based upon that motion and pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, the
Court hereby

ORDERS that the Motion is granted and the Defendant may have until March 2, 2005 to
answer or otherwise respond to Plaintiff's Complaint.

6

DATED this 2nd day of Feb., 2005.

BY THE COURT:

A handwritten signature in cursive script, appearing to read 'S. Alba', written over a horizontal line.

Hon. Samuel Alba
Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office, and that a copy of the foregoing proposed **ORDER FOR ENLARGEMENT OF TIME** was mailed, postage prepaid, to all parties named below, this 20th day of January, 2005.

Frank M. Wells, Esq.
2485 Grant Avenue, Suite 200
Ogden, UT 84401

A handwritten signature in cursive script, appearing to read "Frank M. Wells", is written over a horizontal line.

jmr

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00150

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Frank M Wells, Esq.
2485 GRANT AVE STE 200
OGDEN, UT 84401
JFAX 8,801,6213652

Ms. Jan N. Allred, Esq.
US ATTORNEY'S OFFICE

EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -2 P 2:37

IN THE UNITED STATES DISTRICT COURT DISTRICT OF UTAH

FOR THE DISTRICT OF UTAH

BY: VA
DEPUTY CLERK

DAVID BROADBENT

Plaintiff(s),

vs.

TMS, et al.

Defendant(s).

**NOTICE REGARDING COURTESY
COPIES**

Case No: 2:04-CV-917 TC

District Judge Tena Campbell

Magistrate Judge David Nuffer

This case has been referred to the magistrate judge under 28 U.S.C. § 636(b). Courtesy copies provided for the magistrate judge through the clerk's office in the manner provided in DUCivR 5-1(a)(3)¹ may not be available to the magistrate judge for several days after filing due to docketing and circulation procedures.

To provide the magistrate judge with more prompt access to courtesy copies of materials filed, the materials should be provided in the conventional manner, as the Rule directs **and** by

(a) email to utmj_nuffer@utd.uscourts.gov² **or**

(b) fax to 801 526 1159 **or**

(c) delivery to chambers at Room 483, U.S. Courthouse, 350 South Main Street, Salt Lake City, Utah.

¹ "At the time of filing, the clerk will require: . . . (3) the original and *two* (2) copies of all pleadings, motions, and other papers pertaining to a matter that has been referred to a magistrate judge."

² WordPerfect or text-based PDF format is preferred. Microsoft Word format and PDF documents created by scanning are also acceptable when such formats are necessary.

19

In the event copies are not provided in one of these three accelerated methods, materials may be delayed. Additional information is at <http://www.utd.uscourts.gov/judges/nuffer.html>.

February 2, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'David Nuffer', written over a horizontal line.

David Nuffer
U.S. Magistrate Judge

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00917

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. David K. Broadbent, Esq.
HOLLAND & HART
60 E SOUTH TEMPLE STE 2000
SALT LAKE CITY, UT 84111-1031
EMAIL

Mr. P. Bryan Fishburn, Esq.
FISHBURN & ASSOCIATES
4505 S WASATCH BLVD #215
SALT LAKE CITY, UT 84124
JFAX 9,2770333

Mark R. Clements, Esq.
HATCH JAMES & DODGE
10 W BROADWAY STE 400
SALT LAKE CITY, UT 84101
EMAIL

Richard M. Matheson, Esq.
MATHESON & PESHELL LLC
5383 S 900 E STE 205
SALT LAKE CITY, UT 84117
EMAIL

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CLERK, U.S. DISTRICT COURT

FEB - 1 2005

2005 FEB - 2 P 2:47

RECEIVED CLERK

FEB - 1 2005

OFFICE OF

JUDGE TENA CAMPBELL OF UTAH

BY:

DEPUTY CLERK

U.S. DISTRICT COURT

Tracy Scott Cowdell (A9290)
ARMKNECHT & COWDELL, P.C.
32 East Main Street
Sandy, Utah 84070
Telephone: (801) 566-7765
Fax No.: (801) 566-7965
e-mail: tracy@tracycowdell.com

Attorneys for Plaintiff
DISABLED RIGHTS ACTION COMMITTEE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

DISABLED RIGHTS ACTION
COMMITTEE, a Utah nonprofit corporation,

Plaintiff,

vs.

ADORN ME, a Utah retail store; AS SEEN
ON TV, a California retail store; BAKERS
FOOTWEAR GROUP, INC., a Missouri
corporation; B.C. SURF & SPORT, a Utah
retail store; B. DALTON BOOKSELLER,
INC., a Minnesota corporation; BLIMPIE, a
Utah business; CHICK-FIL-A, INC., a
Georgia corporation; CHRISTMAS
COTTAGE, a Utah retail store;
CHRISTOPHER & BANKS, INC., a
Minnesota corporation; CHURROS OLE!
INC., a Utah corporation; COPPER KETTLE
SWEET SPECIALTIES, a Utah business;
DIAMOND WIRELESS, L.L.C., a Utah
limited liability company; DOCTORS PLUS,
INC., a Utah corporation; ENJOY WEAR
CUSTOM SCREEN PRINTING, a Utah retail
store; FOOT LOCKER STORES, INC., a
Delaware corporation; FRENZE, a Utah retail
store;

**ORDER OF DISMISSAL
WITH PREJUDICE**

Civil No. 2:03cv-0648C

Judge Tena Campbell

THE GAME DEN, L.L.C., a Utah limited liability company; THE GAME PEDLER, L.L.C., a Utah limited liability company; GENESCO, INC., a Tennessee corporation; HAMMOND TOY AND HOBBY, a Utah retail store; HEAD OVER HEELS, a Utah retail store; KB TOY OF MASSACHUSETTS, INC., a Massachusetts corporation; MRS. CAVANAUGH'S CANDIES, INC., a Utah corporation; NEW OPTIONS, a Utah retail store; PASSION NAILS, a Utah retail store; RADIOSHACK CORPORATION, a Delaware corporation; RAINBOW APPAREL COMPANIES, INC., a New York corporation; REGIS CORPORATION, a Minnesota corporation; SILVER LOFT, a Utah retail store; SOFTWARE ETC. STORES, INC., a Delaware corporation; SPRING COMMUNICATIONS, INC., a Utah corporation; THINGS REMEMBERED, a Delaware corporation; T-MOBILE USA, INC., a Delaware corporation; VI'S HALLMARK, a Utah retail store; WEST END LOGS, L.L.C., a Utah limited liability company; WILSONS LEATHER HOLDINGS, INC., a Minnesota corporation; XCESSORIZE, a Utah retail store; YOUR JOURNEY'S END, a Utah retail store; ZUMIEZ, INC., a Delaware corporation; DOES A-L; ROE CORPORATIONS A-L; NEW PLAN EXCEL REALTY TRUST, a Maryland corporation,

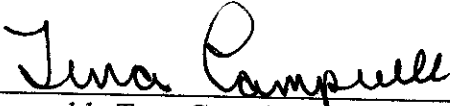
Defendants.

Based upon the motion of the plaintiff, and good cause appearing,

IT IS HEREBY ORDERED that the above-captioned matter be and hereby is dismissed against WILSONS LEATHER HOLDINGS, INC., a Minnesota corporation, with prejudice and on the merits, with each party to bear its respective costs and attorneys' fees.

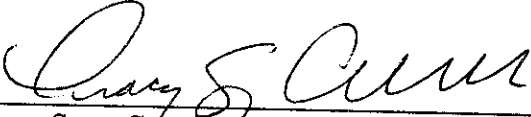
DATED this 1 day of Feb, 2005.

BY THE COURT:



Honorable Tena Campbell
United States District Court Judge

APPROVED AS TO FORM:



Tracy Scott Cowdell
ARMKNECHT & COWDELL, P.C.
Attorneys for Plaintiff

alt

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00648

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Thomas N. Crowther, Esq.
CROWTHER & GARDNER
1121 E 3900 S STE 115
SALT LAKE CITY, UT 84124
EMAIL

Tracy Scott Cowdell, Esq.
ARMKNECHT & COWDELL PC
32 E MAIN ST
SANDY, UT 84070
EMAIL

PAUL M. WARNER, United States Attorney (#3389)
DAVE BACKMAN, Assistant United States Attorney (#8044)
Attorneys for the United States of America
185 South State St. Ste. 400
Salt Lake City, Utah 84101
Telephone: (801) 524-5682

RECEIVED
JAN 31 2005
OFFICE OF
JUDGE TENA CAMPBELL

FILED
CLERK, U.S. DISTRICT COURT
RECEIVED CLERK
2005 FEB -21 P 2:47
JAN 31 2005
DISTRICT OF UTAH
U.S. DISTRICT COURT
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PAUL DONALD KIMBALL,

Defendant.

ORDER CONTINUING
SUPPRESSION HEARING

Case No. 2:04CR178 TC

Judge Tena Campbell

Based on the motion of the United States, the stipulation of defense counsel, and for good cause, the Court hereby grants the motion continue the suppression hearing. The suppression hearing is continued until 2/24/05 @ 10:00 a.m.

DATED this 9th day of Feb, 2004.

BY THE COURT:

Tena Campbell

Tena Campbell
United States District Judge

71

alt

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00178

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David F. Backman, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Scott C. Williams, Esq.
43 E 400 S
SALT LAKE CITY, UT 84111
EMAIL

Mark J. Gregersen, Esq.
3855 S 500 W STE M
SALT LAKE CITY, UT 84115
EMAIL

Sharon L. Preston, Esq.
716 E 4500 S STE N142
SALT LAKE CITY, UT 84107
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

RECEIVED

CLERK U.S. DISTRICT COURT

RECEIVED CLERK

JAN 27 2005

2005 FEB -2 P 3:33

2005 JAN 26 P 7:56

Catherine R. Cleveland (9055)
Attorney for Defendant
8 East Broadway Suite #500
Salt Lake City, Utah 84111
Telephone: (801) 359-2211
Telefax: (801) 456-2211
Electronic Notice: crclleveland@earthlink.net

OFFICE OF
JUDGE TENA CAMPBELL

BY: _____
DEPUTY CLERK

U.S. DISTRICT COURT
DISTRICT OF UTAH

RECEIVED

FEB 8 1 2005

SAMUEL ALBA
U.S. MAGISTRATE

Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELIAS SALAZAR,

Defendant.

ORDER GRANTING MOTION FOR
EXTENSION OF TIME TO FILE
MOTIONS

Case No.2:04cr00819

Judge Tena Campbell


THIS MATTER having come before the Court on the defendant's *Motion for Extension of Time to File Motions*, the Court having reviewed the pleadings and being thus advised; now therefore,

IT IS ORDERED that the defendant's motion is granted and the defendant shall have until 2/15, 2005, to file motions in the above-entitled matter.

13

IT IS FURTHER ORDERED that the time from the granting of this motion to the time set for trial in this matter shall be excluded for purposes of speedy trial pursuant to 18 U.S.C. § 3161(h)(8)(A) & (B).

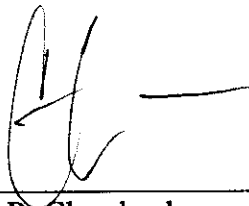
DONE in chambers this 2nd day of ~~January~~ February, 2005.

A handwritten signature in black ink, appearing to be "A. L. [unclear]", written over a horizontal line.

CERTIFICATE OF MAILING

I hereby certify that I personally caused to be mailed a true and correct copy of the foregoing on this 26 day of January, 2005, to the following:

Paul M. Warner
Trina A. Higgins
United States Attorney's Office
185 South State Street #400
Salt Lake City, UT 84111-1506

A handwritten signature in black ink, appearing to be 'C. Cleveland', written over a horizontal line.

Catherine R. Cleveland

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00819

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Trina A Higgins, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

David C. Blum, Esq.
CRIPPEN & CLINE LC
10 W 100 S STE 425
SALT LAKE CITY, UT 84101
EMAIL

Catherine R. Cleveland, Esq.
8 E BROADWAY STE 500
SALT LAKE CITY, UT 84111

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL/NORTHERN DIVISION

2005 FEB -2 P 11:25

Town Park Hotel Corp.,
Plaintiff,

vs.

Priskos Investments Inc., et al.,
Defendant.

Case No. 1:02 CV 0164 TC

AMENDED SCHEDULING ORDER

Pursuant to Fed.R. Civ P. 16(b), Magistrate Judge David Nuffer received the Stipulated Motion to Amend Scheduling Order [docket no. 47] filed by counsel. The motion is GRANTED. The following matters are rescheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

This case is referred to Magistrate Judge David Nuffer only for Pretrial Scheduling under DUCivR 16-1(b) and is NOT referred under DUCivR 72-2 (b) or (c). Therefore, the name of Magistrate Judge David Nuffer should NOT appear on the caption of future pleadings. The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).

****ALL TIMES 5 PM UNLESS INDICATED****

I.	PLEADINGS/MOTIONS:	DATE	TIME
a.	Cutoff for Motion to Amend Pleadings (Includes Motion to Add Parties)	N/A	_____
b.	Cutoff for Dispositive Motions	<u>7/15/05</u>	_____
II	DISCLOSURE		
a.	Was Rule 26(f)(1) Conference held?	<u>Yes</u>	_____
b.	Was 26(a)(1) Initial Disclosure Completed?	<u>Yes</u>	_____
c.	Has Attorney Planning Meeting Form been submitted?	<u>Yes</u>	_____
d.	Rule 26(a)(2) Reports from Retained Experts ¹		
	pty with burden of proof on issue	4/30/05	_____
	rebuttal	5/31/05	_____

48

SCHEDULING ORDER -2

f.	Rule 26(a)(3) Pretrial Disclosures ²	<u>DATE</u>	<u>TIME</u>
	Plaintiff(s)	<u>10/31/05</u>	_____
	Defendant(s)	<u>11/15/05</u>	_____
III.	DISCOVERY CUTOFF	<u>3/25/05-fact</u> <u>6/15/05-expert</u>	_____ _____
IV.	DISCOVERY STIPULATIONS AND ORDERS	_____	_____
V.	PRETRIAL CONFERENCES:		
	a. Special Attorney Conference ³ on or before	<u>10/1/05</u>	_____
	b. Settlement Conference ⁴ on or before	<u>10/1/05</u>	_____
	c. Final Supplementation		_____
	d. Final Pretrial Conference	<u>11/17/05</u>	3:00 p.m.
VI.	TRIAL	<u>LENGTH</u>	<u>TIME</u> <u>DATE</u>
	a. Bench Trial		
	b. Jury Trial	<u>2 weeks</u>	<u>8:30 a.m.</u> <u>12/5/05</u>
	Jurors: Six		Twelve <input checked="" type="checkbox"/>
VII.	ALTERNATIVE DISPUTE RESOLUTION		
	a. Referral to Court-Annexed Mediation		
	b. Referral to Court-Annexed Arbitration	<u>NO</u>	
VIII.	LIMITATIONS ON DISCOVERY		<u>NUMBER</u>
	a. Maximum Number of Depositions by Plaintiff(s)		<u>10</u>
	b. Maximum Number of Depositions by Defendant(s)		<u>10</u>
	c. Maximum Number of Hours for Taking Depositions (unless extended by agreement of parties and except for one deposition taken by each side which may consume two seven hour days)		<u>7</u>
	d. Maximum Interrogatories by any Party to any Party		<u>30</u>
	e. Maximum requests for admissions by any Party to any Party		

SCHEDULING ORDER -3

IX. OTHER MATTERS:

a. Nature of Claim:

b. Settlement Potential:

c. Other:

Appearances by Plaintiff(s):

Appearances by Defendant(s):

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial.

Dated this 2 day of February, 2005. 

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The identity of testifying experts and the subject of their testimony shall be disclosed as soon as an expert is retained or, in the case of an employee-expert, as soon as directed to prepare a report.
2. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
3. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.
4. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference. DUCivR 16-3(c).

alt

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:02-cv-00164

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Kenneth B. Black, Esq.
STOEL RIVES LLP
201 S MAIN ST STE 1100
SALT LAKE CITY, UT 84111-4904
EMAIL

Timothy C. Houpt, Esq.
JONES WALDO HOLBROOK & MCDONOUGH
170 S MAIN ST STE 1500
PO BOX 45444
SALT LAKE CITY, UT 84145-0444
EMAIL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
Central Division for the District of Utah

FILED
2005 FEB -2 P 4:26

DISTRICT OF UTAH

BY:  CLERK

TARIQ AHMAD,

Plaintiff,

vs.

JOHN KUBICK SR., et al,

Defendant.

SCHEDULING ORDER

Case No. 2:04CV01010 TC

District Judge Tena Campbell

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

1. PRELIMINARY MATTERS

DATE

Nature of claim(s) and any affirmative defenses:

- | | | |
|----|--|----------------|
| a. | Was Rule 26(f)(1) Conference held? | <u>Yes</u> |
| b. | Has Attorney Planning Meeting Form been submitted? | <u>yes</u> |
| c. | Was 26(a)(1) initial disclosure completed? | <u>2/15/05</u> |

2. DISCOVERY LIMITATIONS

NUMBER

- | | | |
|----|--|-----------|
| a. | Maximum Number of Depositions by Plaintiff(s) | <u>10</u> |
| b. | Maximum Number of Depositions by Defendant(s) | <u>10</u> |
| c. | Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. | Maximum Interrogatories by any Party to any Party | <u>40</u> |
| e. | Maximum requests for admissions by any Party to any Party | <u>40</u> |
| f. | Maximum requests for production by any Party to any Party | <u>40</u> |

DATE

6

3. AMENDMENT OF PLEADINGS/ADDING PARTIES²

- a. Last Day to File Motion to Amend Pleadings 8/31/05
- b. Last Day to File Motion to Add Parties 8/31/05

4. RULE 26(a)(2) REPORTS FROM EXPERTS³

- a. Plaintiff 12/1/05
- b. Defendant 12/1/05
- c. Counter Reports 12/16/05

5. OTHER DEADLINES

- a. Discovery to be completed by:
 - Fact discovery 10/1/05
 - Expert discovery 1/15/06
- b. *(optional)* Final date for supplementation of disclosures and discovery under Rule 26 (e)
- c. Deadline for filing dispositive or potentially dispositive motions 2/15/06

6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION

- a. Referral to Court-Annexed Mediation no
- b. Referral to Court-Annexed Arbitration no
- c. Evaluate case for Settlement/ADR on
- d. Settlement probability:

7. TRIAL AND PREPARATION FOR TRIAL:

- a. Rule 26(a)(3) Pretrial Disclosures⁴
 - Plaintiffs 5/15/06
 - Defendants 5/29/06
- b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)

			<u>DATE</u>
c.	Special Attorney Conference ⁵ on or before		6/12/06
d.	Settlement Conference ⁶ on or before		6/12/06
e.	Final Pretrial Conference	3:00PM	6/26/06
f.	<u>Trial</u>	<u>Length</u>	<u>Time</u> <u>Date</u>
	i. Bench Trial		
	ii. Jury Trial	<u>5 days</u>	<u>8:30AM</u> <u>7/17/06</u>

8. **OTHER MATTERS:**

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 2 day of February, 2005.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. The identity of experts and the subject of their testimony shall be disclosed as soon as an expert is retained or, in the case of an employee-expert, as soon as directed to prepare a report.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

\\LAW\IPT\2005\Ahmad v. Kubick 2 04 CV 01010 TC 020205.wpd

alt

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01010

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Tariq Ahmad
137 VASSAR ST 5
RENO, NV 89502

Mr. Craig C. Halls, Esq.
333 S MAIN ST
BLANDING, UT 84511
JFAX 9,1435,6783330

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Central Division for the District of Utah

2005 FEB -21 P 4: 32

DISTRICT OF UTAH

BY: DEPUTY CLERK

TROY L. KITER,

Plaintiff,

vs.

RASMUSSEN EQUIPMENT
COMPANY,

Defendant.

SCHEDULING ORDER

Case No. 2:04-CV-00889 TC

District Judge Tena Campbell

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

1. PRELIMINARY MATTERS

DATE

Nature of claim(s) and any affirmative defenses:

- | | | |
|----|--|----------------|
| a. | Was Rule 26(f)(1) Conference held? | <u>1/20/05</u> |
| b. | Has Attorney Planning Meeting Form been submitted? | <u>Yes</u> |
| c. | Was 26(a)(1) initial disclosure completed? | <u>2/28/05</u> |

2. DISCOVERY LIMITATIONS

NUMBER

- | | | |
|----|--|-----------|
| a. | Maximum Number of Depositions by Plaintiff(s) | <u>20</u> |
| b. | Maximum Number of Depositions by Defendant(s) | <u>20</u> |
| c. | Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. | Maximum Interrogatories by any Party to any Party | <u>50</u> |
| e. | Maximum requests for admissions by any Party to any Party | <u>50</u> |
| f. | Maximum requests for production by any Party to any Party | <u>50</u> |

4

DATE

3. AMENDMENT OF PLEADINGS/ADDING PARTIES²

- a. Last Day to File Motion to Amend Pleadings 5/30/05
- b. Last Day to File Motion to Add Parties 5/30/05

4. RULE 26(a)(2) REPORTS FROM EXPERTS³

- a. Plaintiff 7/30/05
- b. Defendant 7/30/05
- c. Counter Reports 9/15/05

5. OTHER DEADLINES

- a. Discovery to be completed by:
 - Fact discovery 7/30/05
 - Expert discovery 9/30/05
- b. *(optional)* Final date for supplementation of disclosures and discovery under Rule 26 (e)
- c. Deadline for filing dispositive or potentially dispositive motions 10/30/05

6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION

- a. Referral to Court-Annexed Mediation no
- b. Referral to Court-Annexed Arbitration no
- c. Evaluate case for Settlement/ADR on
- d. Settlement probability:

7. TRIAL AND PREPARATION FOR TRIAL:

- a. Rule 26(a)(3) Pretrial Disclosures⁴
 - Plaintiffs 1/26/06
 - Defendants 2/9/06
- b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)

			<u>DATE</u>
c.	Special Attorney Conference ⁵ on or before		2/23/06
d.	Settlement Conference ⁶ on or before		2/23/06
e.	Final Pretrial Conference	3:00PM	3/9/06
f.	<u>Trial</u>	<u>Length</u>	<u>Time</u> <u>Date</u>
	i. Bench Trial		
	ii. Jury Trial	<u>7 days</u>	<u>8:30AM</u> <u>3/30/06</u>

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 2 day of February, 2005.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

- The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).
- Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
- The identity of experts and the subject of their testimony shall be disclosed as soon as an expert is retained or, in the case of an employee-expert, as soon as directed to prepare a report, but in no event later than June 1, 2005.
- Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
- The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special

equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

I:\LAW\IPT\2005\Kiter v. Rasmussen 2 04 cv 889 TC 012805.wpd

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00889

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Ms. Kathryn Collard, Esq.
LAW FIRM OF KATHRYN COLLARD LC
9 EXCHANGE PLACE STE 1111
SALT LAKE CITY, UT 84111
EMAIL

Nan T. Bassett, Esq.
KIPP & CHRISTIAN
10 EXCHANGE PLACE FOURTH FL
SALT LAKE CITY, UT 84111-2314
EMAIL

RONALD W. PERKINS, #2568 of
FARR, KAUFMAN, SULLIVAN, GORMAN
JENSEN, MEDSKER, NICHOLS & PERKINS
Attorney for Defendant
Carlos Armando Galaz Felix
205 26th Street, Suite 34
Ogden, Utah 84401
Telephone: (801) 394-5526

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -21 P 3:33
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH NORTHERN DIVISION

UNITED STATES OF AMERICA,	/	
Plaintiff,	/	Case No 1:03CR00062
	/	
vs.	/	
	/	ORDER FOR COMPENSATION
	/	UNDER THE CRIMINAL JUSTICE
DEAN RAMIREZ, CARLOS	/	ACT <i>NUNC PRO TUNC</i>
ARMANDO GALEZ- FELIX	/	
	/	
et al.	/	
	/	Judge: Tena Campbell
	/	Magistrate: Samuel Alba
Defendants	/	

Based upon the Motion for Compensation Under the Criminal Justice Act *Nunc Pro Tunc*
hereto filed by RONALD W. PERKINS and good cause appearing,

IT IS HEREBY ORDERED that Attorney RONALD W. PERKINS be and is hereby
appointment to represent Defendant Carlos Armando Galaz-Felix in the above entitled matter pursuant
to the Criminal Justice Act with such appointment effective March 1, 2004.

DATED this 31st day of January, 2005.

BY THE COURT:


MAGISTRATE JUDGE SAMUEL ALBA
United States District Court

510

RONALD W. PERKINS, #2568 of
FARR, KAUFMAN, SULLIVAN, GORMAN
JENSEN, MEDSKER, NICHOLS & PERKINS
Attorney for Defendant
Carlos Armando Galaz Felix
205 26th Street, Suite 34
Ogden, Utah 84401
Telephone: (801) 394-5526

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH NORTHERN DIVISION

UNITED STATES OF AMERICA,	/	
Plaintiff,	/	Case No 1:03CR00062
	/	
vs.	/	
	/	ORDER FOR COMPENSATION
	/	UNDER THE CRIMINAL JUSTICE
DEAN RAMIREZ, CARLOS	/	ACT <i>NUNC PRO TUNC</i>
ARMANDO GALEZ- FELIX	/	
	/	
et al.	/	
	/	Judge: Tena Campbell
	/	Magistrate: Samuel Alba
Defendants	/	

Based upon the Motion for Compensation Under the Criminal Justice Act *Nunc Pro Tunc*
hereto filed by RONALD W. PERKINS and good cause appearing,

IT IS HEREBY ORDERED that Attorney RONALD W. PERKINS be and is hereby
appointment to represent Defendant Carlos Armando Galaz-Felix in the above entitled matter pursuant
to the Criminal Justice Act with such appointment effective March 1, 2004.

DATED this _____ day of January, 2005.

BY THE COURT:

MAGISTRATE JUDGE SAMUEL ALBA
United States District Court

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:03-cr-00062

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Gary L Gale, Esq.
2568 WASHINGTON BLVD STE 205
OGDEN, UT 84401
JFAX 8,801,6215826

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Mr. D. Richard Smith, Esq.
SMITH COLE & ASSOCIATES
4444 S 700 E STE 101
SALT LAKE CITY, UT 84107
EMAIL

Todd A. Utzinger, Esq.
UTZINGER & PERRETTA
562 S MAIN ST 2ND FL
BOUNTIFUL, UT 84010
EMAIL

Mr. Stephen R McCaughey, Esq.
10 W BROADWAY STE 650
SALT LAKE CITY, UT 84101
EMAIL

Michael P. Kennedy, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. Loren E Weiss, Esq.
VAN COTT BAGLEY CORNWALL & MCCARTHY
50 S MAIN STE 1600

PO BOX 45340
SALT LAKE CITY, UT 84145
EMAIL

Mr. Ronald W Perkins, Esq.
FARR KAUFMAN SULLIVAN
JENSEN MEDSKER NICHOLS CONKLIN & PERKINS
205 26TH ST STE 34
OGDEN, UT 84401
JFAX 8,801,3924125

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -2 P 6:16

RECEIVED CLERK

FEB -2 2005

U.S. DISTRICT COURT

JENNIFER L. FALK (4568)
CLAWSON & FALK
2257 South, 1100 East
Salt Lake City, Utah 84106
Tele: (801) 322-5000
Attorneys for Mark Ryan,
Defendant

DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT OF UTAH

CENTRAL DIVISION

RIDENA C. CROMPTON,

Plaintiff,

v.

MOUNTAIN LAND REALTY and MARK
RYAN,

Defendants.

**ORDER GRANTING EX PARTE
MOTION FOR AN EXTENSION OF
TIME FOR DEFENDANT MARK
RYAN TO FILE A MOTION FOR
SUMMARY JUDGMENT**

Civil No.: 2:04 CV 00048 DAK


Judge Dale A. Kimball

Defendant Mark Ryan, by and through his counsel Jennifer L. Falk, submitted an ExParte motion to extend the time for filing a Motion for Summary Judgment. The Court has reviewed the motion and the pleadings on file. As it appears that Plaintiff will not be prejudiced in the filing of the motion, and as no date for hearing has been set for dispositive motions in this case, the Court GRANTS Defendant Ryan's Motion for An Extension of Time to File A Motion for Summary Judgment. Defendant Ryan may have until Friday, February 4th, 2004, in which to file such motion.

IT IS SO ORDERED

34

BY THE COURT:


Hon. Dale A. Kimball, Judge

February 2, 2005

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00048

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Kenneth Parkinson, Esq.
HOWARD LEWIS & PETERSEN
120 E 300 N
PO BOX 1248
PROVO, UT 84603
EMAIL

Ms. Lisa A Yerkovich, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

Mark Ryan
AFFILIATED REALTY GROUP
574 S STATE ST
OREM, UT 84058

Jennifer L. Falk, Esq.
CLAWSON & FALK LLC
2257 S 1100 E STE 105
SALT LAKE CITY, UT 84106
EMAIL

RECEIVED CLERK

FEB - 1 2005

U.S. DISTRICT COURT

PAUL M. WARNER, United States Attorney (#3639)
JAN N. ALLRED, Assistant United States Attorney (#4741)
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111-1506
Telephone (801) 524-5682

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -3 A 9:28
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	O R D E R
)	
vs.)	
)	
TONYA LYNN BOWETER,	)	Case No. 2:99CR00430-1
)	
Defendant,	)	Honorable Ted Stewart

The Court, having received the Stipulation of the parties dated January 28, 2005, and good cause appearing therefor,
IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Judgment was entered on February 28, 2000 in the total sum of \$3,263.95 in favor of the United States of America (hereafter the "United States") and against Tonya Lynn Boweter (hereafter "Boweter").

2. Boweter has agreed to pay and the United States has agreed to accept monthly installment payments from her in the amount of \$100.00 commencing on the 15th day of February, 2005 and

54

continuing thereafter on the 15th day of each month for a period of 12 months. At the end of said time period, and yearly thereafter, Boweter shall submit a current financial statement to the United States Attorney's Office. This payment schedule will be evaluated and may be modified, based on the documented financial status of Boweter.

3. In addition to the regular monthly payment set forth in paragraph 2, above, Boweter has agreed that the United States may submit her debt in the above-captioned case to the State of Utah and the U.S. Department of Treasury for inclusion in the State Finder program and the Treasury Offset program. Boweter understands that under these programs, any state or federal payment that she would normally receive may be offset and applied toward the debt in the above-captioned case.

4. Boweter shall submit all financial documentation in a timely manner and keep the United States Attorney's Office apprised of the following:

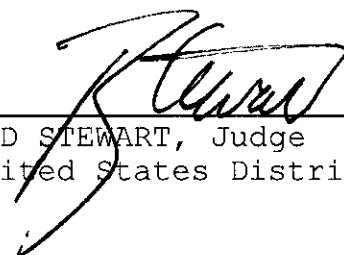
- a. Any change of address; and
- b. Any change in employment.

5. The United States has agreed to refrain from execution on the judgment so long as Boweter complies strictly with the agreement set forth in paragraphs 2 and 4, above. In the event Boweter fails to comply strictly with the terms set forth in the

Stipulation dated January 28, 2005, the United States may move the Court ex parte for a writ of execution and/or a writ of garnishment or any other appropriate order it deems necessary for the purpose of obtaining satisfaction of the judgment in full.

DATED this 3rd day of January, 2005.

BY THE COURT:


TED STEWART, Judge
United States District Court

APPROVED AS TO FORM:


TONYA LYNN BOWETER
Defendant

jmr

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:99-cr-00430

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Leshia M. Lee-Dixon, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Ms. Jan N. Allred, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -2 P 6:15

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Jon D. Williams (8318)
8 East Broadway, Suite 500
Salt Lake City, Utah 84111
(801) 746-1460
(801) 746-5613 FAX
Attorney for Defendant

RECEIVED CLERK
FEB - 2 2005
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
CENTRAL DIVISION, DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SHARON MCKEAGE,

Defendant.

ORDER CONTINUING TRIAL SETTING

Case No. 2:04-CR-742-DAK

BASED UPON the Defendant's motion, good cause having been shown, the Court now enters the following Order:

1. The Court finds that if this motion were denied it would deny the Defendant continuity of counsel.
2. Counsel has requested additional time to engage in plea negotiations with the government.
3. The Court finds that counsel has exercised due diligence in preparing this case.
4. The ends of justice in granting this request outweigh the best interest of the public and the Defendant in a speedy trial. Therefore, the Court finds that, pursuant to 18

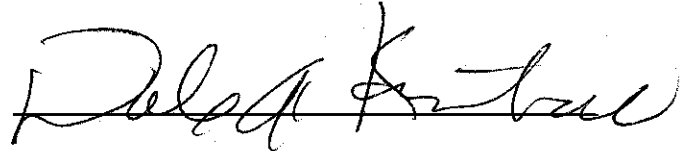
16

U.S.C. § 3161 (h)(8)(a), granting a continuance serves the ends of justice and
outweighs the interests of the public and the Defendant in a speedy trial.

The Court will schedule a new trial date.

DATED this 2d day of February, 2005.

BY THE COURT:

A handwritten signature in dark ink, appearing to read "Dale A. Kimball", written over a horizontal line.

Dale A. Kimball
United States District Court Judge

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00742

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Robert A. Lund, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Jon D. Williams, Esq.
8 E BROADWAY STE 500
SALT LAKE CITY, UT
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -3 A 10:25

U.S. DISTRICT COURT
DISTRICT OF UTAH

United States District Court District of Utah

UNITED STATES OF AMERICA

vs.

Martin Navarro Soria

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

DEPUTY CLERK

Case Number: 2:04-CR-00713-001-TC

Plaintiff Attorney: Leshia Lee-Dixon, AUSA

Defendant Attorney: Ted Weckel, Esq.

Atty: CJA ☒ Ret ☐ FPD ☐

Defendant's Soc. Sec. No.: None

Defendant's Date of Birth:

02/01/2005

Date of Imposition of Sentence

Defendant's USM No.:

Defendant's Residence Address:

Mexico

Defendant's Mailing Address:

Mexico

Country

Country

THE DEFENDANT:

☒ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

COP 11/23/2004 Verdict

I of indictment

Title & Section

8 USC § 1326

Nature of Offense

Re-Entry of Previously Removed Alien

Count

Number(s)

I

Entered on docket

2-3-04 by:

[Signature]
Deputy Clerk

☐ The defendant has been found not guilty on count(s)

☐ Count(s) (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

24 months

Upon release from confinement, the defendant shall be placed on supervised release for a term of

36 months

☐ The defendant is placed on Probation for a period of
The defendant shall not illegally possess a controlled substance.

21

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☒ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall not re-enter the United States illegally.
2. The defendant shall submit to the collection of a DNA sample at the direction of the US Bureau of Prisons or the USPO.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No fine imposed.

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), it is ordered that:
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other: _____

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

RECOMMENDATION

- ☒ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in Nellis, Nevada.

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

2-2-2005

Tena Campbell
Tena Campbell
United States District Judge

Defendant: Martin Navarro Soria
Case Number: 2:04-CR-00713-001-TC

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00713

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Leshia M. Lee-Dixon, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Theodore R. Weckel, Esq.
275 E S TEMPLE STE 301
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -3 A 10:25

CLERK, U.S. DISTRICT COURT

BY: DEPUTY CLERK

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

NUTRACEUTICAL CORP., a Delaware
corporation,

Plaintiff,

vs.

NASHAI BIOTECH LLC, a Tennessee
corporation; BANNER PHARMACAPS,
INC., a Delaware corporation,

Defendants.

ORDER

Case No. 2:03CV937 TC

For the reasons set forth at the close of the February 2, 2005 hearing, the court DENIES Defendant Banner Pharmacaps' partial motion to dismiss (Dkt. 68) as to the 4th, 6th, and 14th causes of action, and GRANTS Defendant's motion, pursuant to stipulation of the parties, as to the 8th and 11th causes of action.

SO ORDERED this 2 day of February, 2005.

BY THE COURT:

Tena Campbell

TENA CAMPBELL

United States District Judge

100

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00937

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Ms. Peggy A Tomsic, Esq.
TOMSIC LAW FIRM LLC
136 E SO TEMPLE #800
SALT LAKE CITY, UT 84111
EMAIL

Mr. Dennis R James, Esq.
MORGAN MINNOCK RICE & JAMES
136 S MAIN STE 800
SALT LAKE CITY, UT 84101
EMAIL

Mr. Scott M Lilja, Esq.
VAN COTT BAGLEY CORNWALL & MCCARTHY
50 S MAIN STE 1600
PO BOX 45340
SALT LAKE CITY, UT 84145
EMAIL

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -3 A 10:25

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION
BY: DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOE VELARDE,

Defendant.

ORDER OF REFERENCE

Civil No. 2:04 CR 457 TC

IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(A) and the rules of this court, the above entitled case is referred to United States Magistrate Judge Brooke C. Wells. Judge Wells is directed to hear and determine any nondispositive matters pending before the court.

DATED this 2 day of February, 2005.

BY THE COURT:

Tena Campbell

TENA CAMPBELL
United States District Judge

25

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00457

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David F. Backman, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. L. Clark Donaldson, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

RECEIVED

FEB - 2 2005

OFFICE OF
JUDGE TENA CAMPBELL

Edwin S. Wall, A7446
WALL LAW OFFICES
8 East Broadway, Ste. 500
Salt Lake City, Utah 84111
Telephone: (801) 523-3445
Facsimile: (801) 746-5613
Electronic Notice: wallsec@xmission.com

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB - 3 A 10:25
DISTRICT OF UTAH
BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOLENE HIGAREDA,

Defendant.

Case No. 1:03 cr 152 TC

ORDER SETTING TRIAL
AND EXCLUDING THE TIME
UNDER THE SPEEDY TRIAL
ACT

Hon. Tena Campbell
(Magistrate Sam Alba)

THIS MATTER came before the Court on January 25, 2005, for a status conference and to determine whether counsel for the defendant had a conflict which would require his withdrawal, the Court having heard from the parties and being thus advised; now therefore,

THE COURT FINDS :

- (1) Defense counsel has a conflict of interest and he is required to withdraw.
- (2) The present case is complex and that newly appointed counsel for the defendant shall require sufficient time to prepare.

IT IS ORDERED that the counsel's motion to withdraw due to a conflict of interest is granted.

IT IS FURTHER ORDERED that the jury trial in the above entitled matter is set for April 4, 2005, at 8:30 a.m. before the Hon. Tena Campbell, Federal District Judge, District of Utah, in

130

courtroom number 230, at the Federal District Courthouse located at 350 South Main Street, Salt Lake City, Utah, and is anticipated to require five days to try.

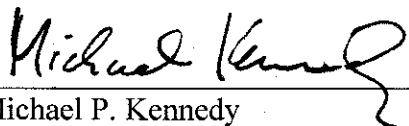
IT IS FURTHER ORDERED, due to the complex nature of the case and the withdrawal of counsel due to a conflict of interest, that the time from the status conference of January 25, 2005, to the trial date of April 4, 2005, shall be excluded for purposes of speedy trial pursuant to 18 U.S.C. § 3161(h)(8)(A) & (B).

DONE in chambers this 2 day of January, 2005.

Set re

Judge

Approved as to form:

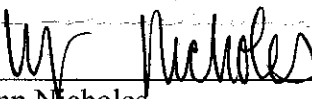

Michael P. Kennedy
Assistant United States Attorney

WALL LAW OFFICES
500 Judge Building
8 East Broadway
Salt Lake City, Utah 84111
Ph: (801) 523-3445/ Fx: (801) 746-5613
Electronic Notice: wallsec@xmission.com

CERTIFICATE OF SERVICE

I, Lynn Nicholes, hereby certify that on the 26th day of January, 2005, I served the original of the attached upon the counsel for the Plaintiff in this matter, by mailing it by first class mail with sufficient postage prepaid to the following address:

Michael P. Kennedy, Esq.
United States Attorneys Office
185 South State Street, Ste. 400
Salt Lake City, Utah 84111



Lynn Nicholes

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:03-cr-00152

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Michael P. Kennedy, Esq.
US ATTORNEY'S OFFICE
/
EMAIL

Ms. Mary C. Corporon, Esq.
CORPORON & WILLIAMS PC
808 E SOUTH TEMPLE
SALT LAKE CITY, UT 84102
EMAIL

Mr. Fred Metos, Esq.
10 W BROADWAY STE 650
SALT LAKE CITY, UT 84101
EMAIL

Mr. Edwin S. Wall, Esq.
WALL LAW OFFICES
8 E BROADWAY STE 500
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH
/
EMAIL

US Probation
DISTRICT OF UTAH
/
EMAIL

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FEB - 2 2005

FILED

CLERK, U.S. DISTRICT COURT

U.S. DISTRICT COURT

2005 FEB - 3 A 10-25

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

RECEIVED

LORI PERRY, for and behalf of herself and
all persons similarly situated,

Plaintiff,

vs.

THE LAW OFFICES OF BENNETT AND
DELONEY, P.C., a professional corporation,
MICHAEL BENNET; RICHARD H.
DELONEY; JOHN DOE OWNERS 1-10;
AND JOHN DOE COLLECTORS 1-10,

Defendants.

ORDER

FEB - 2 2005

OFFICE OF
JUDGE TENA CAMPBELL

Civil No. 2:04CV00434 TC

Judge Tena Campbell

The Court, having received and reviewed the Stipulation to Filing of Second Amended Complaint pursuant to Rule 15(a) of the Federal Rules of Civil Procedure and good cause appearing therefor,

IT IS HEREBY ORDERED that Plaintiff be allowed to file a Second Amended Complaint in the form of the Second Amended Complaint attached as Exhibit A to the Stipulation to Filing of Second Amended Complaint.

DATED this 2 day of January, 2005

BY THE COURT:

Tena Campbell
Hon. Tena Campbell

26

CERTIFICATION OF MAILING

I hereby certify that on January 31st, 2005, a copy of the foregoing pleading was sent by first

class mail to:

Douglas G. Schneebeck
MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.
P.O. Box 2168
Bank of America Centre
500 Fourth Street, N.W., Suite 700
Albuquerque, NM 87103

John A. Anderson
Kenneth B. Black
David J. Jordan
STOEL RIVES, LLP.
201 South Main Street, Suite 1100
Salt Lake City, Utah 84111

Attorneys for Defendant

A handwritten signature in cursive script, reading "Aubrey P. Broome". The signature is written in dark ink and is positioned to the right of the text "Attorneys for Defendant".

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00434

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Lester A. Perry, Esq.
HOOLE & KING LC
4276 HIGHLAND DR
SALT LAKE CITY, UT 84124
EMAIL

O. Randolph Bragg, Esq.
HORWITZ HORWITZ & ASSOC
25 E WASHINGTON ST STE 900
CHICAGO, IL 60602
EMAIL

Michael D. Kinkley, Esq.
4407 N DIVISION ST STE 914
SPOKANE, WA 99207
EMAIL

Mr. John A. Anderson, Esq.
STOEL RIVES LLP
201 S MAIN ST STE 1100
SALT LAKE CITY, UT 84111-4904
EMAIL

Douglas G. Schneebeck, Esq.
MODRALL SPERLING ROEHL HARRIS & SISK PA
500 FOURTH ST NW STE 1000
ALBUQUERQUE, NM 87102
EMAIL

RECEIVED

FEB - 2 2005

OFFICE OF
JUDGE TENA CAMPBELL

HOLME ROBERTS & OWEN LLP

Carolyn Cox, #4816

299 South Main Street, Suite 1800

Salt Lake City, UT 84111

Telephone: (801) 521-5800

Facsimile: (801) 521-9639

Attorneys for Defendants

RECEIVED CLERK

FEB - 2 2005

U.S. DISTRICT COURT

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -3 A 10:25

CLERK OF UTAH

DEPUTY CLERK

IN THE UNITED STATES JUDICIAL DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

DANIEL ALIX, TABETHA ALIX, JAROM
ALIX AND LOGAN ALIX,

Plaintiffs,

v.

THE LOVESAC CORPORATION and
SHAWN NELSON, individually

Defendants.

ORDER GRANTING EXTENSION OF
TIME IN WHICH TO RESPOND TO THE
COMPLAINT

Case No. 2:05cv000033

Judge Tena Campbell

Based on the Stipulation and Motion of the parties and good cause appearing therefor:

IT IS HEREBY ORDERED that defendants The Lovesac Corporation and Shawn Nelson may have an extension of time to and including February 18, 2005 in which to respond to the Complaint.

Feb 2, 2005
Tena Campbell

Judge Tena Campbell

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 2nd day of February, 2005, a true and correct copy of the foregoing **ORDER GRANTING EXTENSION OF TIME IN WHICH TO RESPOND TO THE COMPLAINT** was served by U.S. mail, postage prepaid, as follows:

Ralph E. Chamness
Lauren I. Scholnick
STRINDBERG SCHOLNICK &
CHAMNESS, LLC
44 Exchange Place, Second Floor
Salt Lake City, UT 84111

Michelle Stephens

alt

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cv-00033

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Ralph E. Chamness, Esq.
STRINDBERG SCHOLNICK & CHAMNESS LLC
44 EXCHANGE PL 2ND FL
SALT LAKE CITY, UT 84111
EMAIL

Ms. Carolyn Cox, Esq.
HOLME ROBERTS & OWEN LLP
299 S MAIN ST STE 1800
SALT LAKE CITY, UT 84111-2263
EMAIL

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

RECEIVED CLERK

FEB - 2 2005

2005 FEB - 31 A 10: 25

JEFF HAWKINS, TIM RASMUSSEN, and KEITH BROWN

Plaintiff

v.

UTAH CARPENTERS ASSOCIATION, an unincorporated association; AND DOES 1 THROUGH 20 INCLUSIVE, Defendant.

U.S. DISTRICT COURT
CASE NO. 2:04cv00446DAK

Appearing on behalf of:
Plaintiffs

DISTRICT OF UTAH
DEPUTY CLERK

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, **Jerrald D. Conder**, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: Feb 2, 2005

(Signature of Local Counsel)

709

(Utah Bar Number)


APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, **Chih-Mei Chen**, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) x a non-resident of the State of Utah or, (ii) a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates **Jerrald Conder** as associate local counsel.

Date: January 13, 2005.

Check here if petitioner is lead counsel.



(Signature of Petitioner)

Name of Petitioner: Chih-Mei Chen

Office Telephone: (213) 488-4100
(Area Code and Main Office Number)

Business Address: De Carlo & Connor

(Firm/Business Name)

533 South Fremont Avenue, Ninth Floor, Los Angeles, CA 90071-1706

Street

City

State

Zip

31

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED LOCATION DATE OF ADMISSION

All California courts 2003

United States District Court District of California 2003

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE CASE NUMBER DATE OF ADMISSION

(If additional space is needed, attach a separate sheet.)

FEE PAID

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 3rd day of February, 20 05.



U.S. District Judge

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00446

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Daniel M. Shanley, Esq.
DECARLO CONNOR & SELVO
533 S FREEMONT AVE 9TH FL
LOS ANGELES, CA 90071-1706
EMAIL

Mr. Jerrald D. Conder, Esq.
8 E BROADWAY STE 500
SALT LAKE CITY, UT 84111
EMAIL

Chih-Mei Chen, Esq.
DE CARLO & CONNOR
533 S FREMONT AVE 9TH FL
LOS ANGELES, CA 90071-1706

John S. Chindlund, Esq.
PRINCE YEATES & GELDZAHLER
175 E 400 S STE 900
SALT LAKE CITY, UT 84111
EMAIL

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -3 A 10:25

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

MIGUEL GONZALEZ-RAMIREZ,
Petitioner,

ORDER

vs.

UNITED STATES OF AMERICA,
Respondent.

Case No. 1:04 CV 163 TC

Before the court is Mr. Gonzalez-Ramirez' Motion for Sanctions and Order Tolling Statute. Mr. Gonzalez-Ramirez asks this court to sanction his counsel in his criminal case (1:03 CR 58) for her failure to turn over the documents and records Mr. Gonzalez-Ramirez has requested in order for him to file an adequate Motion to Vacate under 28 U.S.C. §2255. Mr. Gonzalez-Ramirez further asks the court to "toll the statute, 28 USC§2255, in the interests of justice and fair play until the [defendant] can acquire the paperwork he needs to mount a competent pleading . . ."

The Motion is denied. The court will make a decision based on the court record. If the court needs additional records, it will obtain them

DATED this 2 day of February, 2005.

BY THE COURT:

Tena Campbell

TENA CAMPBELL
United States District Judge

4

alt

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00163

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Miguel Gonzalez-Ramirez
FCI ASHLAND
10736-081
PO BOX 6001
ASHLAND, KY 41105

Ms. Carlie Christensen, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

2005 FEB -3 : A 10: 24

FEB - 2 2005

JUDGE'S COPY

U.S. DEPARTMENT OF COMMERCE

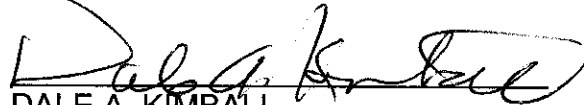
DEPUTY CLERK

Sur Opposition Memorandum on or before February 11, 2005. Defendant may file a

Sur Reply Memorandum on or before February 18, 2005.

Dated this 3rd day of February 2005.

BY THE COURT

A handwritten signature in black ink, appearing to read "Dale A. Kimball", written over a horizontal line.

DALE A. KIMBALL

United States District Court Judge

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00556

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Edwin C. Barnes, Esq.
CLYDE SNOW SESSIONS & SWENSON
ONE UTAH CENTER 13TH FL
201 S MAIN ST
SALT LAKE CITY, UT 84111-2216
EMAIL

Christopher B. Snow, Esq.
CLYDE SNOW SESSIONS & SWENSON
ONE UTAH CENTER 13TH FL
201 S MAIN ST
SALT LAKE CITY, UT 84111-2216
EMAIL

Mr. David J Holdsworth, Esq.
9125 S MONROE PLAZA WAY STE C
SANDY, UT 84070
JFAX 9,5679960

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -31 A 9:35

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

MARK R. MOFFAT (#5112)
Attorney for Defendant
10 West Broadway, Suite 210
Salt Lake City, Utah 84101
Telephone: (801) 532-5297
Facsimile: (801) 532-5298

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. STUART J. WALKER, Defendant.	ORDER CONTINUING TRIAL Case No. 2:04CR-0794DAK
--	---

Based upon motion of the defendant, the stipulation of the government and good cause appearing therefor;

IT IS HEREBY ORDERED that the trial date of February 16, 2005, at 8:30 a.m. is stricken and that the matter is reset for trial *to be set by the Magistrate Judge* ~~on the~~ _____ ~~day of~~ _____ 2005, at _____ .m.

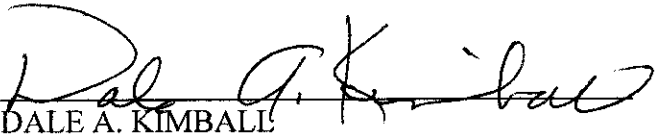
The Court finds that the interests of justice outweigh the interests of the defendant and the public in a speedy trial. The Court finds that the continuance is necessary to insure adequate preparation by defense counsel under the circumstances of this case.

IT IS FURTHER ORDERED that the intervening time between February 16, 2005, and the newly fixed trial date is excluded under the Speedy Trial Act, 18 U.S.C. §3161(h)(8)(A) and (B).

20

DATED this 2d day of February 2005.

BY THE COURT:


DALE A. KIMBALL
U.S. District Court Judge

MAILING CERTIFICATE

I hereby certify that a true and correct copy of the foregoing Order Continuing Trial was mailed, postage prepaid, to Barbara Bearnson, Assistant U.S. Attorney, 185 South State Street, #400, Salt Lake City, Utah 84111, on the _____ day of February 2005.

H:\MRM\PI\2315.wpd

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00794

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Ms. Barbara Bearnson, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Mr. Mark R Moffat, Esq.
BROWN BRADSHAW & MOFFIT
10 W BROADWAY STE 210
SALT LAKE CITY, UT 84101
JFAX 9,5325298

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

RECEIVED

FILED
CLERK, U.S. DISTRICT COURT

FEB - 2 2005

2005 FEB - 3 A 10: 25

OFFICE OF
JUDGE TENA CAMPBELL

RECEIVED CLERK

FEB - 1 2005

U.S. DISTRICT COURT

BY:
DEPUTY CLERK

RICHARD D. BURBIDGE (0492)
JEFFERSON W. GROSS (8339)
BURBIDGE & MITCHELL
Attorneys for Counterclaimant
215 South State Street, Suite 920
Salt Lake City, Utah 84111
Telephone: (801) 355-6677
Facsimile: (801) 355-2341

RAYMOND J. ETCHEVERRY (1010)
KENT O. ROCHE (2783)
PARSONS BEHLE & LATIMER
201 South Main Street, Suite 1800
Salt Lake City, Utah 84145
Telephone: (801) 532-1234
Facsimile: (801) 536-6111

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

LUMBERMENS MUTUAL CASUALTY
COMPANY,

Plaintiff,

vs.

CLEARONE COMMUNICATIONS,
INC., EDWARD D. BAGLEY, BRAD R.
BALDWIN, FRANCES M. FLOOD,
MICHAEL A. PEIRCE, HARRY
SPIELBERG, SUSIE STROHM,
RANDALL J. WICHINSKI, AND DAVID
WIENER,

Defendants.

STIPULATED PROTECTIVE ORDER

Civil No. 2:04CV00119TC
Judge Tena Campbell
Magistrate Judge Nuffer

118

Defendant National Union Fire Insurance Co. of Pittsburgh, PA. ("National Union") has sought discovery of documents and information from KPMG, Plaintiff ClearOne Communications, Inc.'s auditors. Such documents and information will most likely include non-public information which is not available to most persons. To allow proper discovery of documents and information from KPMG and to maintain the non-public and confidentiality of such information, IT IS HEREBY STIPULATED, by and between the parties, Plaintiffs ClearOne Communications, Inc. and Edward Dallin Bagley and Defendants National Union through their respective counsel, subject to the approval of the Court, as follows:

SCOPE OF PROTECTION

1. Subject to the limitations of Paragraph 4, the term "KPMG Information" refers to (i) any documents produced by KPMG pursuant to subpoenas in this matter, (ii) any deposition testimony from a KPMG witness, and (iii) any deposition testimony concerning documents produced by KPMG. KPMG Information shall also include (i) any expert reports incorporating or referencing KPMG Information and (ii) any pleadings and papers incorporating or referencing KPMG Information. KPMG Information shall be used solely in connection with this litigation and the preparation and trial of this case, or any related appellate proceeding, and not for any other purpose, including any business, competitive, or governmental purpose or function, except as required by law.

ACCESS TO KPMG INFORMATION

2. (a) KPMG Information may be disclosed to (i) counsel of record for the parties in this action, including necessary secretarial, paralegal, and clerical personnel assisting such

counsel who shall be informed, by such counsel, of their obligations hereunder, and (ii) qualified persons taking testimony involving such document or information.

(b) KPMG Information also may be disclosed to (i) in-house counsel of the parties to this litigation, including necessary secretarial, paralegal and clerical personnel assisting such counsel who shall be informed, by in-house counsel, of their obligations hereunder, (ii) adjustors engaged on behalf of the parties to this litigation, including necessary secretarial, paralegal and clerical personnel assisting such adjustors who shall be informed, by counsel of record, of their obligations hereunder, (iii) outside experts or consultants and their staff (who shall be informed of their obligations hereunder) who are employed by counsel of record for the purposes of this litigation, and (iv) a single, non-legal employee of a party assisting counsel in the preparation of the case, including necessary secretarial, paralegal and clerical personnel assisting such employees who shall be informed, by the employee, of their obligations hereunder, provided that each such person has first read this Order and has agreed, by signing the form attached as Exhibit "A" hereto and sending a signed copy of the form to counsel of record for the party for whom the disclosure is made: (1) to be bound by the terms of the form; (2) not to reveal such KPMG Information to anyone other than another person designated in this paragraph; and (3) to utilize KPMG Information solely for purposes of this litigation, including but not limited to the trial or any related appellate proceeding. The form shall also acknowledge that the signatory has read this Order.

(c) The only persons who may attend any portion of a deposition involving KPMG Information of a party are (i) those persons entitled to receive the KPMG Information under the terms of this Protective Order; and (ii) counsel for the witness (if someone other than KPMG and if not otherwise covered by this protective Order), who shall be requested to execute the form as attached as Exhibit "A" before the deposition and, if he or she declines, the parties will jointly seek a further Protective Order of the Court.

3. When KPMG Information is filed with the Court, other than at trial, the party offering it must file the relevant materials under seal and label the document as:

"CONFIDENTIAL INFORMATION: FILED UNDER SEAL

PURSUANT TO PROTECTIVE ORDER. To Be Opened Only

By Or As Directed By The Court."

KPMG Information, whether submitted in writing or by way of oral testimony, shall be disclosed at a hearing, other than at trial, only on the *in camera* record, or according to such other safeguards as are deemed appropriate by the Court, and shall not be made part of the public record of this proceeding absent further order of the Court. This provision shall not prevent a second copy of any pleading or paper specifically intended for review by the Court from being hand-delivered to the Court's chambers in order to ensure that it is brought promptly to the Court's attention. Such second copy shall also be filed in a sealed condition and marked as specified above.

4. Notwithstanding any other provision herein, KPMG Information shall not include and no party hereto shall be precluded from using or disclosing in any manner as such party may see fit:

(a) Any document or information which at the time of its disclosure in this action is part of the public domain; or

(b) Any document or information which after its disclosure in this action becomes part of the public domain by some mechanism other than an act, an omission, or fault of the receiving party; or

(c) Any document or information which at the time of its disclosure in this action is rightfully in the possessing of the receiving party, its outside counsel of record, its adjusters, its in-house attorneys and those of its affiliates, or any of its experts under no obligation of confidence (the burden shall be on any party claiming rights under this provision to provide that such document or information was in its rightful possession);

(d) Any document or information which is acquired by the receiving party from a source lawfully possessing such document or information and under no obligation of confidence.

5. This Order shall not prevent either of the parties from applying to the Court for relief from this Order, or from applying to the Court for further or additional protective orders, or from agreeing between themselves to modification of this Order, subject to the approval of the Court.

6. If KPMG Information is disclosed to any person other than in the manner authorized by this Order, the party responsible for the unauthorized disclosure must immediately bring all pertinent facts relating to such disclosure to the attention of the providing party and, without prejudice to other rights and remedies of the providing party, make every

effort to prevent further disclosure by it or by the person who was the recipient of the KPMG Information.

TERMINATION OF LITIGATION

7. This Protective Order shall survive the termination of this litigation. For purposes of this Order, this litigation terminates upon the exhaustion of any right to appeal.

8. Upon termination of this litigation, each party will destroy all documents and things in it possession that contain KPMG Information other than one full set of pleadings and work product containing KPMG Information.

ORDERED this 2 day of January, 2005.

TC
feb
BY THE COURT:

Tena Campbell
Honorable Tena Campbell
United States District Court Judge

APPROVED AS TO FORM:

DATED: 2/1/05

Kent J. Roche

Raymond J. Etcheverry
Kent O. Roche
PARSONS BEHLE & LATIMER
Attorneys for Defendant/ Counterclaimant/Plaintiff
ClearOne Communications, Inc.

DATED: Jan. 31, 2005

Douglas R. Irvine

Douglas R. Irvine
LEWIS BRISBOIS BISGAARD & SMITH
Attorneys for National Union Fire Insurance
Company of Pittsburgh, Pennsylvania

DATED: 2/1/05

Richard D. Burbidge

Richard D. Burbidge
Jefferson W. Gross
Robert J. Shelby
BURBIDGE & MITCHELL
Attorneys for Edward D. Bagley

EXHIBIT "A"

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

LUMBERMENS MUTUAL CASUALTY
COMPANY,

Plaintiff,

vs.

CLEARONE COMMUNICATIONS, INC.,
EDWARD D. BAGLEY, BRAD R. BALDWIN,
FRANCES M. FLOOD, MICHAEL A. PEIRCE,
HARRY SPIELBERG, SUSIE STROHM,
RANDALL J. WICHINSKI, AND DAVID
WIENER,

Defendants.

AGREEMENT AND UNDERTAKING REGARDING
CONFIDENTIALITY

Civil No. 2:04CV00119TC
Judge Tena Campbell
Magistrate Judge Nuffer

I, _____, declare, agree, and undertake as follows:

1. My address is _____

2. My present employer is _____

3. My present occupation or job description is _____

4. I have received a copy of the PROTECTIVE ORDER signed by the Court on _____
_____, 2005.

5. I have carefully read and understand the provisions of the PROTECTIVE ORDER.
 6. I understand that the PROTECTIVE ORDER is binding upon me and I will comply with all of the provisions thereof.
 7. I will hold in confidence, will not disclose to anyone not qualified under the PROTECTIVE ORDER, and will use only for purposes of this action any KPMG Information which is disclosed to me.
 8. I will return all KPMG Information which comes into my possession, and documents or things which I have prepared relating thereto, to counsel for the party by whom I am employed or retained.
 9. I hereby submit to the jurisdiction of the Court for the purposes of enforcement of the PROTECTIVE ORDER in this action.
 10. I understand that this Agreement will be kept by the counsel that obtained my signature and may be produced upon order of the Court.
 11. I declare under penalty of perjury that the foregoing is true and correct. Executed this ____ day of _____ 2005 in _____.
-

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing **STIPULATED PROTECTIVE ORDER** was served in the indicated manner of service on this 15th day of February, 2005, to the following:

Gary L. Johnson
Ramona E. Garcia
RICHARDS BRANDT MILLER & NELSON
Key Bank Tower, Seventh Floor
50 S. Main Street
Salt Lake City, Utah 84110
Via U.S. Mail

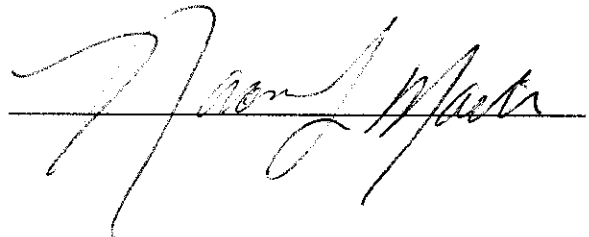
Thomas N. Sanford
LEWIS BRISSBOIS BISGAARD & SMITH
199 Water Street, Twenty-Fifth Floor
New York, NY 10038-3701
Via U.S. Mail

Douglas R. Irvine
LEWIS BRISBOIS BISGAARD & SMITH
221 N. Figueroa Street, Suite 1200
Los Angeles, CA 90012-2646
Via U.S. Mail

Thomas W. Queen
Sandra Tvarian Stevens
WILEY REIN & FIELDING, LLP
1776 K Street, N.W.
Washington, DC 20006
Via U.S. Mail

Phillip S. Ferguson
Anneliese L. Cook-Booher
CHRISTENSEN & JENSEN
50 S. Main Street, Suite 1500
Salt Lake City, Utah 84144-0103
Via U.S. Mail

Kent O. Roche
PARSONS BEHLE & LATIMER
201 S. Main Street, Suite 1800
Salt Lake City, UT 84111
Via U.S. Mail

A handwritten signature in cursive script, appearing to read "Ramona E. Garcia", is written over a horizontal line.

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00119

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Gary L Johnson, Esq.
RICHARDS BRANDT MILLER & NELSON
50 S MAIN ST STE 700
PO BOX 2465
SALT LAKE CITY, UT 84110
EMAIL

Sandra Tvarian Stevens, Esq.
WILEY REIN & FIELDING
1776 K ST NW
WASHINGTON, DC 20006
EMAIL

Mr. Raymond J Etcheverry, Esq.
PARSONS BEHLE & LATIMER
201 S MAIN ST STE 1800
PO BOX 45898
SALT LAKE CITY, UT 84145-0898
EMAIL

Mr. Richard D Burbidge, Esq.
BURBIDGE & MITCHELL
215 S ST ST STE 920
SALT LAKE CITY, UT 84111
EMAIL

Mr. Phillip S Ferguson, Esq.
CHRISTENSEN & JENSEN PC
50 S MAIN STE 1500
SALT LAKE CITY, UT 84144
EMAIL

Douglas R. Irvine, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
221 N FIGUEROA ST
LOS ANGELES, CA 90012-2601
EMAIL

Thomas M. Sanford, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP

199 WATER ST 25TH FL
NEW YORK, NY 10038

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

**CHECKLIST FOR FILING DOCUMENTS
UNDER SEAL**

HAVE YOU:

- ☐ Placed your document in an unfolded envelope with a copy of the cover page of the document affixed to the outside of the envelope.
- ☐ Placed a notation on the coverpage affixed to the outside of the envelope that the document is "SEALED."
- ☐ Prepared a copy for the Judge as noted above.
- ☐ Differentiated the documents as to "original" and/or "copy".

No document may be sealed unless accompanied by an order sealing the document, it is being filed in a case already under seal or it contains material under a protective order (if under a protective order, coverpage & document should be clearly marked: "CONFIDENTIAL, SUBJECT TO A COURT PROTECTIVE ORDER").

Unless otherwise ordered, the clerk will provide access to a sealed case or document only on court order.

United States District Court
District of Utah

Markus B. Zimmer
Clerk of Court

Louise S. York
Chief Deputy

February 3, 2005

Mr. Patrick Fisher, Clerk
United States Court of Appeals
for the Tenth Circuit
1823 Stout Street
Denver, CO 80257

RE: RECORD ON APPEAL
USA v. Visinaiz -- 04-4277
Lower Docket: 2:03-CR-701-PGC

Dear Mr. Fisher:

We hand you herewith, by FedEx mail, Volumes I-XIII of the record on appeal in the above-referenced case.

Volume:	Contents:
I.	Consisting of designated documents 1, 30, 41, 111, 117, 120, 123-125, 135, 137, 141-146, 148-150, 156, 158, 160-161, 164-165, 167, 173, 175, 177-178, 182, 185-189, 192-193, 197, 200, 205, 207, 216-219, 222, 230-231, 234.
II.	Consisting of designated documents 236-237, 242-245, 249-252, 254-255, 257, 261-270, 272-275, 277-282, 284-285.
III.	Consisting of designated documents 289-291, 296, 298, 300-308, 314-315, 317-319, 322, 324.
IV.	Consisting of SEALED designated documents 294, 320-321, 323.
V.	Consisting of designated transcripts for 8/23/04(Jury Trial).
VI.	Consisting of designated transcripts for 8/24/04(Jury Trial).
VII.	Consisting of designated transcripts for 8/25/04(Jury Trial).
VIII.	Consisting of designated transcripts for 08/26/04(Jury Trial).
IX.	Consisting of designated transcripts for 11/16/04(Sentencing Hearing).
X.	Consisting of designated transcripts for 01/20/05(Restitution Hearing).
XI.	Consisting of defense exhibits 6-7, 14-19, 21, 23-25, 29-32, 40-46.
XII.	Consisting of defense exhibit 64.
XIII.	Consisting of SEALED pre-sentence report.

Please acknowledge receipt of this record on appeal by signing the enclosed copy of this letter and returning it to my attention.

Sincerely,

326

Markus B. Zimmer, Clerk

By: /S
Aaron Paskins
Appeals Clerk

cc: Counsel of Record

FedEx Mail Receipt No.: 7915 4120 8964 and 7915 4120 8975

ACKNOWLEDGMENT OF RECEIPT:

Received by: _____

Date: _____

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cr-00701

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr Carlos A Esqueda, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Diana Hagen, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Mr. Cy H Castle, Esq.
US TRUSTEE'S OFFICE
9 EXCHANGE PLACE STE 100
BOSTON BLDG
SALT LAKE CITY, UT 84111
EMAIL

Theodore R. Weckel, Esq.
275 E S TEMPLE STE 301
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT
2005-03-18 P 1:36
JAN 18 2005
CLERK

U.S. CYBERTRONICS, INC.,
Plaintiff,

STIPULATED PRELIMINARY
INJUNCTION ORDER

vs.

Case No. 2:05-CV-48 TC

MONARCH INTERNATIONAL
HOLDINGS, INC.; GEARJOCKEY.COM,
INC.; DANIEL ANDERSON; DALE
JONES, GORDON LEWIS; SHERRY
LEWIS BROWN (aka SHERRY LEWIS);
JOE PREIGNITZ; NICK PIZZO; JOHN
DOES 1-5,

Defendants.

IT IS HEREBY ORDERED (based on the parties' stipulation) that, for the duration of
this lawsuit:

1. Defendants in the above-captioned matter, as well as their agents and anyone else acting under their direction or control, shall not use, disseminate, copy, publish, or otherwise make use of the alleged copyrighted material owned by Plaintiff as identified in the papers issuing Copyright Registration Number 133907728 (June 2003). A copy of the covered materials must be attached as Exhibit A to this Order before the injunction takes effect;
2. Defendants in the above-captioned matter, as well as their agents and anyone else acting under their direction or control, shall not use, disseminate, copy, publish, or otherwise

17

make use of the alleged copyrighted material owned by Plaintiff and accepted and issued by the United States Copyright Office on January 6, 2005 (issuance of registration number pending; on file at the Library of Congress) – that is, all PHP files in the folder www.gearjockey.com/userdb/ (a copy of the covered materials must be attached as Exhibit B to this Order before the injunction takes effect);

3. Upon issuance of the injunction, Defendants shall provide immediate notice of the terms and issuance of the preliminary injunction, as well as a copy of this Order, to all of their agents or those acting under Defendants' direction or control; and

4. Plaintiff shall not use, disseminate, copy (other than to the extent necessary to preserve evidence for this lawsuit), publish, or otherwise make use of any of the Defendants' alleged proprietary materials that Plaintiff, its agents, employees, officers, or others acting under its direction or control, gain access to by virtue of access to the web-server www.gearjockey.com or godaddy.com for purposes of copying Plaintiff's copyrighted materials in the website's "userdb" folder.

IT IS FURTHER ORDERED THAT:

5. Plaintiff is to return the web-server to Defendants no later than 4:00 p.m., Friday, February, 4, 2005.

6. The injunction will become effective as soon as an appropriate bond is submitted by the Plaintiff and the materials (Exhibits A and B identified above) are provided to the court. The amount of the bond will be decided by the court after receipt and consideration of affidavits from Plaintiff and Defendants setting forth reasons to support what they believe is an appropriate bond amount. In addition to filing the affidavit in the usual course, Defendants are to submit

their supporting affidavit to the court via fax or hand delivery no later than 4:00 p.m. on Friday, February 4, 2005. Similarly, Plaintiff is to submit its supporting affidavit to the court via fax or hand delivery no later than 4:00 p.m. on Monday, February 7, 2005. At the same time the affidavits are submitted to the court, the sending party shall fax, hand-deliver, or email a copy of the affidavit to opposing counsel.

IT IS SO ORDERED this 3 day of February, 2005.

BY THE COURT:

Tena Campbell

TENA CAMPBELL
United States District Judge

alt

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cv-00048

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Philip J. Hardy, Esq.
470 E 3900 S STE 203
SALT LAKE CITY, UT 84107
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -21 A 11: 58

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

RECEIVED CLERK

2005 JAN 31 P 8: 39

U.S. DISTRICT COURT
DISTRICT OF UTAH

Tracy H. Fowler (1106)
Angela Stander (9623)
SNELL & WILMER L.L.P.
15 West South Temple, Suite 1200
Gateway Tower West
Salt Lake City, Utah 84101-1004
Telephone: (801) 257-1900
Facsimile: (801) 257-1800

Brian J. Mooney, *Pro Hac Vice*
Kai Peters, *Pro Hac Vice*

GORDON & REES L.L.P.
Embarcadero Center West
275 Battery Street, Suite 2000
San Francisco, CA 94111
Telephone: (415) 986-5900
Facsimile: (415) 986-8054

*Attorneys for Defendants Abbott Laboratories and
Perclose, Inc.*

RECEIVED

FEB - 1 2005

OFFICE OF
JUDGE PAUL G. CASSELL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

LARRY NEY,

Plaintiff,

vs.

ABBOTT LABORATORIES, a foreign
corporation, and PERCLOSE, INC., a
foreign corporation

Defendants.

ORDER GRANTING LEAVE TO FILE
OVERLENGTH MEMORANDUM IN
OPPOSITION TO PLAINTIFF'S MOTION
TO COMPEL

Case No. 2:03CV00626 PGC

U.S. District Judge Paul G. Cassell

Magistrate Judge David Nuffer

59

Having reviewed the motion for leave to file overlength reply brief filed by Defendants Abbott Laboratories and Perclose, Inc., and for good cause appearing,

IT IS HEREBY ORDERED that Defendants motion for leave to file overlength brief is GRANTED.

DATED this 2 day of ^{February}~~January~~, 2006.

BY THE COURT:



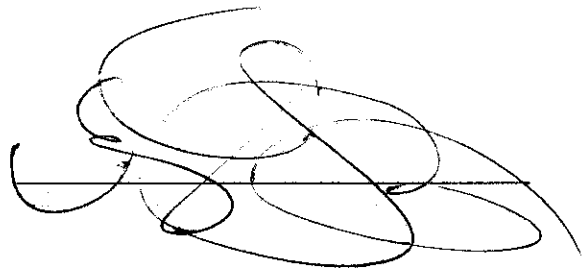
Magistrate Judge David Nuffer

CERTIFICATE OF SERVICE

I hereby certify that I caused to be mailed a true and accurate copy of the foregoing,
**ORDER GRANTING LEAVE TO FILE OVERLENGTH MEMORANDUM IN
OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL RESPONSES TO (1) FIRST
SET OF INTERROGATORIES; (2) FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS; (3) SECOND REQUEST FOR PRODUCTION OF DOCUMENTS; AND
(4) DEPOSITION QUESTIONS**, postage prepaid, on this 31st day of January, 2005, to the
following:

Douglas B. Cannon
Gregory M. Saylin
FABIAN & CLENDENIN
215 South State Street
Suite 1200
P. O. Box 510210
Salt Lake City, Utah 84151

Arthur C. Johnson
Dennis M. Gerl
JOHNSON, CLIFTON, LARSON & CORSON, P.C.
975 Oak Street, Suite 1050
Eugene, Oregon 97401

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00626

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Tracy Fowler, Esq.
SNELL & WILMER LLP
15 W SOUTH TEMPLE STE 1200
GATEWAY TOWER W
SALT LAKE CITY, UT 84101
EMAIL

Brian J. Mooney, Esq.
GORDON & REES LLP
EMBARCADERO CTR W
275 BATTERY ST 20TH FL
SAN FRANCISCO, CA 94111

Mr. Douglas B Cannon, Esq.
FABIAN & CLENDENIN
215 S STATE STE 1200
PO BOX 510210
SALT LAKE CITY, UT 84151
EMAIL

Dennis M. Gerl, Esq.
JOHNSON CLIFTON LARSON & CORSON PC
975 OAK ST STE 1050
EUGENE, OR 97401-3176
EMAIL

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -21 A 11: 58
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

LARRY NEY,

Plaintiff(s),

vs.

ABBOTT LABORATORIES, et al.,

Defendant(s).

ORDER

Case No: 2:03 CV 626 PGC

District Judge Paul G. Cassell

Magistrate Judge David Nuffer

IT IS HEREBY ORDERED that reply memoranda, if any, on the following motions, shall be filed on or before February 11, 2005:

- a. Plaintiff's Motion to Compel Responses . . . , docket no. 42, filed December 28, 2004; and
- b. Defendants' . . . Motion for Protective Order, docket no. 47, filed January 12, 2005.

February 2, 2005.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

60

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00626

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Tracy Fowler, Esq.
SNELL & WILMER LLP
15 W SOUTH TEMPLE STE 1200
GATEWAY TOWER W
SALT LAKE CITY, UT 84101
EMAIL

Brian J. Mooney, Esq.
GORDON & REES LLP
EMBARCADERO CTR W
275 BATTERY ST 20TH FL
SAN FRANCISCO, CA 94111

Mr. Douglas B Cannon, Esq.
FABIAN & CLENDENIN
215 S STATE STE 1200
PO BOX 510210
SALT LAKE CITY, UT 84151
EMAIL

Dennis M. Gerl, Esq.
JOHNSON CLIFTON LARSON & CORSON PC
975 OAK ST STE 1050
EUGENE, OR 97401-3176
EMAIL

ROBERT BREEZE #4278
Attorney for Defendant
402 East 900 South
Salt Lake City, Utah 84111
Telephone: (801) 322-2138
Facsimile: (801) 328-2554
E-mail: rbreeze@lgcy.com.

OFFICE OF
JUDGE PAUL G. CASSELL
IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH,

CENTRAL DIVISION

UNITED STATES,

Plaintiff,

vs.

RAY ABEL ATIENZO et al,

Defendant.

CASE NO. 2:04 CR 534 PGC

MOTION FOR ORDER TO CONTINUE
TRIAL AND ALLOWING LATE FILING OF
MOTION TO SUPPRESS

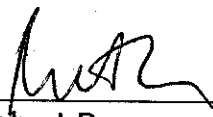
ORDER

HONORABLE PAUL G. CASSELL

COMES NOW the Defendant's counsel who moves the Court for an order continuing the trial presently set for February 15, 2005. Defendant further moves the court for an order authorizing herein to submit an out of time motion to suppress evidence.

The basis for this motion is that it appears a key piece of evidence may have been unlawfully obtained. In the alternative, defendant requests to the court permit a brief hearing prior to trial.

Dated this 2 day of February, 2005.


Robert Breeze
Attorney at Law

1

SO ORDERED


PAUL G. CASSELL
United States District Judge

Date

2/2/05



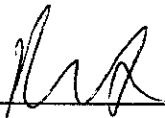
COURTESY COPY
FOR JUDGE Cassell
DO NOT FILE
RECEIVED
FEB - 2 2005
JUDGE'S COPY
B. DEPUTY CLERK
DISTRICT OF UTAH
2005 FEB - 2 P 2:18
FILED
CLERK, U.S. DISTRICT COURT

CERTIFICATE OF MAILING

I certify I mailed/faxed/hand delivered a true and correct copy of the foregoing
to:

Colleen K. Coebergh
Special Assistant U.S. Attorney
348 East South Temple
Salt Lake City, Utah 84111

Dated this 2 day of Februaryy, 2005.



United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00534

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Colleen K. Coebergh, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
348 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

J. Christopher Keen, Esq.
KEEN LAW OFFICES LLC
3585 N UNIVERSITY AVE STE 250
PROVO, UT 84064
EMAIL

Hakeem Ishola, Esq.
ISHOLA & ASSOCIATES PC
716 E 4500 S STE N-142
SALT LAKE CITY, UT 84107
EMAIL

Robert Breeze, Esq.
402 E 900 S #1
SALT LAKE CITY, UT 84111
EMAIL

Todd A. Utzinger, Esq.
UTZINGER & PERRETTA
562 S MAIN ST 2ND FL
BOUNTIFUL, UT 84010
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

FILED
CLERK U.S. DISTRICT COURT

2005 FEB -2 P 2:18

USA

Plaintiff,

vs.

Ray Abel Atienzo

Defendant.

Order Directing Briefing in Advance of
Motion Hearing

and

NOTICE OF HEARING

Case No. 2:04-cr-00534 PGC

Counsel for the United States is **directed to file, ten days in advance of the motion to suppress hearing set for Monday, 03/07/2005 at 10:30 a.m.**, a statement of facts that it anticipates will emerge at the hearing, and cases supporting admission of the challenged evidence. This filing shall contain, at least, a chronology of events sufficient to permit defense counsel and the Court to prepare in advance for the factual and legal issues that are likely to emerge at the hearing. This filing may include police reports or other documents.

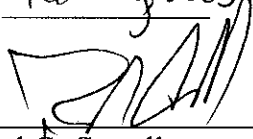
Counsel for the defendant may file a response to the filing of the United States two days in advance of the hearing. If the defendant's pleading is filed less than five days before the hearing, the defendant shall hand deliver or fax the pleading to the government and to the court.

Counsel are advised that the Court may, in its discretion, after hearing argument from counsel, rule from the bench concerning the challenged evidence, if the Court is sufficiently well advised of the facts and the law.

By directing this briefing schedule, the Court hopes to facilitate rapid decision on suppression issues. The Court invites feedback from counsel on the desirability of these procedures. **The trial date of 02/15/2005 is stricken for both defendants.**

SO ORDERED.

DATED this 2nd day of February 2005


Paul G. Cassell
United States District Judge

44

tsh

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00534

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Colleen K. Coebergh, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
348 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

J. Christopher Keen, Esq.
KEEN LAW OFFICES LLC
3585 N UNIVERSITY AVE STE 250
PROVO, UT 84064
EMAIL

Hakeem Ishola, Esq.
ISHOLA & ASSOCIATES PC
716 E 4500 S STE N-142
SALT LAKE CITY, UT 84107
EMAIL

Robert Breeze, Esq.
402 E 900 S #1
SALT LAKE CITY, UT 84111
EMAIL

Todd A. Utzinger, Esq.
UTZINGER & PERRETTA
562 S MAIN ST 2ND FL
BOUNTIFUL, UT 84010
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

RECEIVED

JAN 27 2005

FILED

RECEIVED

CLERK, U.S. DISTRICT COURT

OFFICE OF

JAN 31 2005

JUDGE PAUL G. CASSELL

2005 FEB -2 A 9:24

OFFICE OF

IN THE UNITED STATES DISTRICT COURT

JUDGE TENA CAMPBELL

RECEIVED CLERK

BY:

DISTRICT OF UTAH, CENTRAL DIVISION

JAN 27 2005

U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

:

2:05 CR 9 PGC

Assoc. 2:05 CR 35

Plaintiff,

:

vs.

:

ORDER TRANSFERRING APPEAL OF

MAGISTRATE JUDGE'S ORDER OF

IKENNA IKOKWU,

:

RELEASE TO ASSIGNED DISTRICT

JUDGE

Defendant.

On the motion of the United States, and good cause appearing therefor, it is hereby
ORDERED that the government's appeal of an order of release by the magistrate judge, Docket
No. 2:05 CR 9 PGC, is transferred and reassigned to the Honorable Tena Campbell.

DATED this 28th day of January, 2005.



PAUL G. CASSELL

United States District Judge

DATED this 2 day of Feb, 2005.



TENA CAMPBELL

United States District Judge

5

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office, and that a copy of the foregoing MOTION TO TRANSFER APPEAL OF MAGISTRATE JUDGE'S ORDER OR RELEASE TO ASSIGNED DISTRICT JUDGE was caused to be delivered, to all persons named below, this 26 day of January, 2005.

Ronald Yengich
175 E. 400 S., #400
Salt Lake City, Utah 84111

Pre Trial Services

Brook Dallen

tsh

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cr-00009

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Michael P. Kennedy, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. Ronald J. Yengich, Esq.
YENGICH RICH & XAIZ
175 E 400 S STE 400
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

RECEIVED

JAN 27 2005

FILED

RECEIVED

CLERK, U.S. DISTRICT COURT

OFFICE OF

JAN 31 2005

JUDGE PAUL G. CASSELL

2005 FEB -2 A 9:24

OFFICE OF

IN THE UNITED STATES DISTRICT COURT

JUDGE TENA CAMPBELL

RECEIVED CLERK

BY:

DISTRICT OF UTAH, CENTRAL DIVISION

JAN 27 2005

U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

:

2:05 CR 9 PGC

Assoc. 2:05 CR 35

Plaintiff,

:

vs.

:

ORDER TRANSFERRING APPEAL OF
MAGISTRATE JUDGE'S ORDER OF
RELEASE TO ASSIGNED DISTRICT
JUDGE

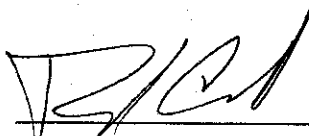
IKENNA IKOKWU,

:

Defendant.

On the motion of the United States, and good cause appearing therefor, it is hereby
ORDERED that the government's appeal of an order of release by the magistrate judge, Docket
No. 2:05 CR 9 PGC, is transferred and reassigned to the Honorable Tena Campbell.

DATED this 28th day of January, 2005.



PAUL G. CASSELL

United States District Judge

DATED this 2 day of Feb, 2005.



TENA CAMPBELL

United States District Judge

17

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office, and that a copy of the foregoing MOTION TO TRANSFER APPEAL OF MAGISTRATE JUDGE'S ORDER OR RELEASE TO ASSIGNED DISTRICT JUDGE was caused to be delivered, to all persons named below, this 26 day of January, 2005.

Ronald Yengich
175 E. 400 S., #400
Salt Lake City, Utah 84111

Pre Trial Services

Brook Dallen

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cr-00035

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Michael P. Kennedy, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Jamie Zenger, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

Mr. Ronald J. Yengich, Esq.
YENGICH RICH & XAIZ
175 E 400 S STE 400
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -2 P 3: 29

RECEIVED
DISTRICT OF UTAH

BY: FEB 2 2005
DEPUTY CLERK
SAMUEL ALBA
U.S. MAGISTRATE

STEVEN B. KILLPACK, Federal Defender (#1808)
VANESSA M. RAMOS, Assistant Federal Defender (#7963)
Utah Federal Defender Office
American Towers Plaza
46 West Broadway, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010

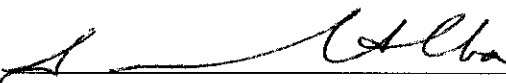
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	)	ORDER
	)	MODIFYING CONDITIONS
Plaintiff,	)	OF RELEASE
)	
v.	)	Case No. 1:04 CR 175 PGC
)	
GREG GROVER,)	
	)	Chief Magistrate Judge Samuel Alba
Defendant.)	

BASED upon the motion of the defendant, Greg Grover, and good cause having been shown,

IT IS HEREBY ORDERED that the conditions of his release be modified to allow him to travel to Henderson, Nevada, from Friday, February 4th, through Monday, February 7th, 2005. During that time, Grover is to reside with his brother, Clay Grover, 423 Bounty Court, Henderson, Nevada.

SIGNED BY MY HAND this 2nd day of February, 2005.



SAMUEL ALBA
Chief United States Magistrate Judge

11

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was mailed/hand delivered to
all parties named below on this 2nd day of February, 2005, to:

Dave Backman
Assistant United States Attorney
185 South State Street, Suite 400
Salt Lake City, UT 84111

Valm M. Leanos

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cr-00175

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David F. Backman, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

Vanessa M. Ramos-Smith, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 2 A 8:34
United States District Court
District of Utah

UNITED STATES OF AMERICA

VS.

Jason James Valdez
aka Fernando Delgado

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: **1:04-cr-00161-001 PGC**

Plaintiff Attorney: **Dave Backman**

Defendant Attorney: **Steve McCaughey**

Atty: CJA ☒ Ret ☐ FPD ☐

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: **10761-081**

Defendant's Residence Address: _____

Country **USA**

02/01/2005

Date of Imposition of Sentence

Defendant's Mailing Address: _____

same

Country **USA**

THE DEFENDANT:

☒ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

COP **02/01/2005** Verdict _____

1s of the Superseding Felony Information

Title & Section

18 USC § 922(g)(8)

Nature of Offense

**Possession of a Firearm While Subject to a
Protective Order**

Count

Number(s)

1s

Entered on docket

2-3-05 by:

TSH

Deputy Clerk

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

48 months

Upon release from confinement, the defendant shall be placed on supervised release for a term of

36 months

☐ The defendant is placed on Probation for a period of _____

250

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant will submit to drug/alcohol testing as directed by the probation office, and pay a one-time \$115 fee to partially defer the costs of collection and testing.
2. The defendant shall participate in drug and/or alcohol abuse treatment under a copayment plan as directed by the United States Probation Office and shall not possess or consume alcohol during the course of treatment.
3. The defendant shall refrain from association with any known gang members
4. The defendant shall not use or possess alcohol.
5. The defendant shall submit to the collection of a DNA sample at the direction of the BOP or the USPO.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No Fine Imposed

☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), it is ordered that:

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other:

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination.

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

RECOMMENDATION

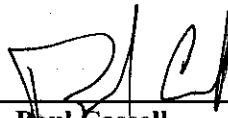
- ☒ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

Placement in the Florence, Co. facility to facilitate family visitation and that the BOP investigate the disability that has placed the defendant in a wheel chair.

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE: 2/1/05



Paul Cassell
United States District Judge

Defendant: Jason James Valdez
Case Number: 1:04-cr-00161-001 PGC

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

tsh

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cr-00161

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David F. Backman, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. Stephen R McCaughey, Esq.
10 W BROADWAY STE 650
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -2 P 2:18
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

TODD UTZINGER (6047)
Attorney for Defendant
562 South Main Street, Second Floor
Bountiful, Utah 84010
Telephone: (801) 397-3131
Facsimile: (801) 397-3139

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,	)	ORDER STRIKING TRIAL
	)	DATE AND EXCLUDING TIME
Plaintiff,	)	FROM SPEEDY TRIAL ACT
	)	CALCULATION
v.)	
)	
ANGEL PEREZ-OLIVAR	)	Case No. 2:04-CR- 534
)	
Defendant.	)	Judge Paul G. Cassell

This matter is before the Court on the joint motion of the defendant and the United States to continue the trial now set for February 15, 2005, and to have the time between defendant's arraignment and any new trial date excluded from the speedy trial act calculation for the reasons stated in the motion.

For good cause shown, I find and order the following:

1. Counsel for the United States has recently been assigned to this case and needs additional time to review discovery, become familiar with the case and to prepare for

4He

trial. Both parties also require additional time to pursue ongoing plea negotiations.


2. The time between defendant's arraignment and any new trial date is excluded under the Speedy Trial Act because both counsel needed that time to interview potential witnesses and pursue plea negotiations. More specifically, the time between the current trial date of February 15, 2005 and any new trial date is excluded under the Speedy Trial Act because newly appointed counsel for the United States requires additional time to prepare for trial. Also, the parties need additional time to continue plea negotiations.

3. I find that a continuance is warranted for the reasons stated above.

4. I find that the ends of justice served by the continuance outweigh the interests of the public and defendant in a speedy trial.

5. Pursuant to Title 18 sec. 3161 (h)(8)(a) and upon the joint motion of the parties, I order that the time between defendant's arraignment and any new trial date be excluded from the computation of time required under the Speedy Trial Act.

SIGNED AND DATED this 2nd day of February, 2005



THE HONORABLE PAUL G. CASSELL
Federal District Court Judge, District of Utah


*Final plea cutoff for both defendants is 03-21-05
Status/Change of plea set for both defendants 3-21-05
No more continuances will be granted 3:30 pm*

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing MOTION and the attached proposed ORDER was hand delivered/mailed via first class mail to:

VERNON G. STEJSKAL
Drug Enforcement Administration
Metropolitan Narcotics Task Force
348 East South Temple
Salt Lake City, Utah 84111

this 2nd day of February, 2005.



Susana Arreola

tsh

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00534

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Colleen K. Coebergh, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
348 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

J. Christopher Keen, Esq.
KEEN LAW OFFICES LLC
3585 N UNIVERSITY AVE STE 250
PROVO, UT 84064
EMAIL

Hakeem Ishola, Esq.
ISHOLA & ASSOCIATES PC
716 E 4500 S STE N-142
SALT LAKE CITY, UT 84107
EMAIL

Robert Breeze, Esq.
402 E 900 S #1
SALT LAKE CITY, UT 84111
EMAIL

Todd A. Utzinger, Esq.
UTZINGER & PERRETTA
562 S MAIN ST 2ND FL
BOUNTIFUL, UT 84010
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 2 11:27

DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICHOLAS MENDOZA and JONATHAN
ANDERSON,

Defendants.

: 2:05-CR-0051PGC

: ORDER OF DETENTION AND
: EXCLUSION OF TIME UNDER
: SPEEDY TRIAL ACT

RECEIVED

FEB - 2 2005

OFFICE OF
JUDGE PAUL G. CASSELL

The parties appeared before the Court on January 28, 2005, on the government's appeal on the magistrate judge's order of release. Defendant Mendoza was present and was represented by Tom Rasmussen; defendant Anderson was present and was represented by Fred Metos. The United States was represented by Veda Travis.

Having heard the proffers by counsel, the Court hereby finds, by a preponderance of the evidence, that defendants both represent risks of nonappearance based on the factors set forth in 18 U.S.C. § 3142(g)

Based on oral motion to suppress by defendant Anderson, the Court also orders an evidentiary hearing on that motion for March 18, 2005, at 2:30 a.m. Based on that motion, the Court hereby orders the time from January 28, 2005, until March 18, 2005,

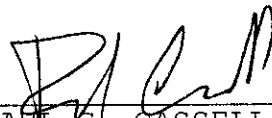
30

excluded under 18 U.S.C. § 3161(h)(1)(F).

DATED this 2nd day of February, 2005.

IT IS SO ORDERED.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. G. Cassell', is written over a horizontal line.

PAUL G. CASSELL
U.S. District Court Judge

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cr-00051

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Veda M. Travis, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. Thomas V Rasmussen, Esq.
4659 S HIGHLAND DR
SALT LAKE CITY, UT 84117
JFAX 9,2731089

Mr. Fred Metos, Esq.
10 W BROADWAY STE 650
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Central Division for the District of Utah

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -2 P 4: 25

DISTRICT OF UTAH

BY: 
DEPUTY CLERK

DOWNTOWN PROPERTIES,

Plaintiff,

vs.

AMERICAN AND FOREIGN
INSURANCE COMPANY,

Defendant.

SCHEDULING ORDER

Case No. 2:04-CV-00953 PGC

District Judge Paul G. Cassell

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for 2/9/05, at 2:30PM is VACATED.

****ALL TIMES 4:30 PM UNLESS INDICATED****

- | 1. PRELIMINARY MATTERS | <u>DATE</u> |
|---|----------------|
| Nature of claim(s) and any affirmative defenses: | |
| a. Was Rule 26(f)(1) Conference held? | <u>1/21/05</u> |
| b. Has Attorney Planning Meeting Form been submitted? | <u>Yes</u> |
| c. Was 26(a)(1) initial disclosure completed? | <u>2/4/05</u> |
-
- | 2. DISCOVERY LIMITATIONS | <u>NUMBER</u> |
|---|----------------|
| a. Maximum Number of Depositions by Plaintiff(s) | <u>10 oral</u> |
| b. Maximum Number of Depositions by Defendant(s) | <u>10 oral</u> |
| c. Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. Maximum Interrogatories by any Party to any Party | <u>30</u> |
| e. Maximum requests for admissions by any Party to any Party | <u>30</u> |

10

f. Maximum requests for production by any Party to any Party 30

DATE

3. AMENDMENT OF PLEADINGS/ADDING PARTIES²

a. Last Day to File Motion to Amend Pleadings 4/29/05

b. Last Day to File Motion to Add Parties 4/29/05

4. RULE 26(a)(2) REPORTS FROM EXPERTS³

a. Plaintiff 11/30/05

b. Defendant 12/30/05

c. Counter Reports 1/30/06

5. OTHER DEADLINES

a. Discovery to be completed by:

Fact discovery 10/31/05

Expert discovery 2/10/06

b. *(optional)* Final date for supplementation of disclosures and discovery under Rule 26 (e)

c. Deadline for filing dispositive or potentially dispositive motions 2/22/06

6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION

a. Referral to Court-Annexed Mediation no

b. Referral to Court-Annexed Arbitration no

c. Evaluate case for Settlement/ADR on

d. Settlement probability:

7. TRIAL AND PREPARATION FOR TRIAL:

a. Rule 26(a)(3) Pretrial Disclosures⁴

Plaintiffs 5/19/06

Defendants 6/2/06

b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)

			<u>DATE</u>
c.	Special Attorney Conference ⁵ on or before		6/16/06
d.	Settlement Conference ⁶ on or before		6/2/06
e.	Final Pretrial Conference	3:00PM	6/30/06
f.	Trial	<u>Length</u>	<u>Time</u> <u>Date</u>
	i. Bench Trial		
	ii. Jury Trial	<u>4 days</u>	<u>8:30AM</u> <u>7/17/06</u>

8. **OTHER MATTERS:**

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 2 day of January, 2005.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. The identity of experts and the subject of their testimony shall be disclosed as soon as an expert is retained or, in the case of an employee-expert, as soon as directed to prepare a report.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

I:\LAW\IPT\2005\Downtown Prop. v. American & Foreign 2 04 cv 953 PGC 020204.wpd

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00953

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. J. Angus Edwards, Esq.
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Mr. Bruce R. Baird, Esq.
HUTCHINGS BAIRD & JONES PLLC
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SANDY, UT 84070
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Mr. Gary L Johnson, Esq.
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FORAN GLENNON PALANDECH & PONZI
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CHICAGO, IL 60606

Stephen Marshall, Esq.
DURHAM JONES & PINEGAR
111 E BROADWAY STE 900
SALT LAKE CITY, UT 84111
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

Glenn R. Bronson (7362)

2005 FEB -3 A 10: 15

PRINCE, YEATES & GELDZAHLER

175 East 400 South, Suite 900 DISTRICT OF UTAH

Salt Lake City, Utah 84111

(801) 524-1000

BY: _____
DEPUTY CLERK

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FILED

2005 JAN 14 P 4: 22

U.S. DISTRICT COURT
DISTRICT OF UTAH

Attorneys for Plaintiff DIRECTV, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
Central Division**

DIRECTV, INC., a California corporation,

Plaintiff,

vs.

ROOSENDAAL,

Defendant.

**STIPULATED PERMANENT
INJUNCTION**

ORDER

Civil No. 2:03cv1022 PGC

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Defendant Wes Roosendaal (the "**Defendant**"), and any persons or entities controlled directly or indirectly by him or her, are hereby permanently enjoined and restrained from:

- a. receiving or assisting others in receiving DIRECTV, Inc.'s ("**DIRECTV's**") satellite transmissions of television programming without authorization by and payment to DIRECTV;
- b. designing, manufacturing, assembling, modifying, importing, exporting, possessing, offering to the public, trafficking, distributing, selling, or using any devices or equipment (including, by way of example, loaders, bootloaders

unloopers, emulators, programmers, reader/writers, or software or components therefor) designed or intended to facilitate the reception and decryption of DIRECTV's satellite transmissions of television programming by persons not authorized to receive such programming;

c. advertising the sale of any devices or equipment (including, by way of example, loaders, bootloaders, unloopers, emulators, programmers, reader/writers, or software or components therefor) designed or intended to facilitate the reception and decryption of DIRECTV's satellite transmissions of television programming by persons not authorized to receive such programming, and advertising or providing information or technical services in support thereof; or

d. reverse engineering or attempting to reverse engineer any of DIRECTV's products, services or technologies, including without limitation the encryption and security controls for the DIRECTV satellite system.

2. This Permanent Injunction shall apply to the Defendant's activities worldwide, and shall apply with the same force and effect to the DIRECTV Latin America (also known as Galaxy Latin America) satellite system, and to any other direct broadcast satellite system or related business in which DIRECTV has a financial or other interest, now or in the future, and, in particular, to any satellite interests owned by News Corp., NDS Americas, Inc., or related companies, including Sky Latin America.

3. The Defendant, and any persons or entities controlled directly or indirectly by him, are hereby permanently enjoined and restrained from:

a. investing or holding any financial interest in any enterprise which the Defendant knows is now, or planning in the future, to engage in any of the activities prohibited by this Permanent Injunction; or

b. knowingly allowing any persons or entities which he controls, either directly or indirectly, to engage in any of the activities prohibited by this Permanent Injunction.

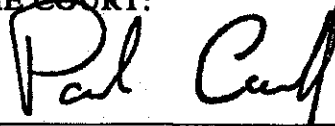
4. In the event that the Defendant becomes aware that an enterprise in which he has invested or holds any financial interest is engaged in any of the activities prohibited by this Permanent Injunction, the Defendant agrees to immediately divest himself of any such investment or financial interest and to promptly notify DIRECTV of the same.

5. The Court shall retain jurisdiction to entertain such further proceedings and to enter such further orders as may be necessary or appropriate to implement and/or enforce the provisions of this Permanent Injunction. The Defendant specifically consents to personal jurisdiction and venue in the United States District Court for the District of Utah.

6. Upon proof of any violations by the Defendant of the provisions of this Permanent Injunction, the Court shall be authorized to award damages to DIRECTV for losses sustained prior to the date of this Permanent Injunction, in addition to any other damages or other relief authorized by law.

DATED this 2 day of February 2004.

BY THE COURT:



Honorable Paul G. Cassell
United States District Court Judge

tsh

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-01022

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

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Gregory M. Constantino, Esq.
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SALT LAKE CITY, UT 84101
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ROBERT B. SYKES (#3180)
KEVIN M. SHEFF (#8300)
ROBERT B. SYKES & ASSOCIATES, P.C.
311 South State Street, Suite 240
Salt Lake City, Utah 84111
Telephone No. (801) 533-0222
Facsimile No. (801) 533-8081

Attorneys for Plaintiff

RECEIVED CLERK

JAN 31 2005

U.S. DISTRICT COURT

RECEIVED

JAN 31 2005

OFFICE OF
JUDGE TENA CAMPBELL

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
UTAH - CENTRAL DIVISION

DALE ALMA BULKLEY,

Plaintiff,

v.

SALT LAKE COUNTY, SALT LAKE
COUNTY SHERIFF'S OFFICE,
DEPUTY JOHN LEE, AND JOHN
AND JANE DOES 1-15,

Defendants.

PRETRIAL ORDER

Civil No. 2-03-CV-269

Judge Tena Campbell

Pursuant to Rule 16 of the *Federal Rules of Civil Procedure* and DuCivR 16-1(3), Counsel for Plaintiff Dale Alma Bulkley ("Plaintiff"), Kevin M. Sheff, and Counsel for Defendant Deputy John Lee ("Defendant"), Don Hansen, hereby submit the following joint proposed Pretrial Order:

59

I. JURISDICTION. This is an action for damages arising out of personal injuries received by Plaintiff. Jurisdiction of the court is invoked under 28 U.S.C. §1343, 28 U.S.C. §1331, and 42 U.S.C. §1983. The jurisdiction of the court is not disputed and is hereby determined to be present.

II. VENUE. Venue was determined by the court to be proper pursuant to 28 U.S.C. §1331. Venue is proper in the Central Division of the District of Utah pursuant to 28 U.S.C. §125.

III. GENERAL NATURE OF THE CLAIMS OF THE PARTIES.

1. Plaintiff's Claims: Plaintiff alleges three causes of action arising out of injuries Plaintiff received during an altercation with Defendant: (1) unlawful search and seizure in violation of the 4th Amendment; (2) assault and battery; and (3) punitive damages.

2. Defendant's Defense: Defendant denies he used excessive force while arresting Plaintiff. Defendant further maintains Plaintiff was the aggressor in the altercation which led to Plaintiff's arrest, and that Plaintiff wilfully interfered, or attempted to interfere, with public servants in the performance of their official duties.

IV. UNCONTROVERTED FACTS. The following facts are established by admissions in the pleadings, by order pursuant to Fed. R. Civ. P. 56(d), or by stipulation of counsel:

1. On March 17, 2002, Plaintiff was on his way to dinner at a friend's house. When Plaintiff arrived, the friend was experiencing a medical emergency and was being treated by emergency medical personnel.

2. Plaintiff knocked at the front door of the friend's home several times. Defendant Deputy J. Lee answered the door, and Plaintiff was ordered by Defendant Deputy J. Lee to remain outside.

3. An altercation developed between Plaintiff and Defendant Lee. Each party contends that the other was the aggressor.

4. During the altercation, Plaintiff was taken to the ground by Defendant Lee. Plaintiff was handcuffed, cited, and later released. Plaintiff went to a hospital emergency room to be treated for his injuries which he claims were caused by the Defendant Lee's excessive use of force.

V. CONTESTED ISSUES OF FACT. The contested issues of fact remaining for decision are:

1. Whether Defendant Deputy J. Lee used excessive, and therefore unreasonable, force in effecting Plaintiff's arrest (*i.e.*, were Lee's actions objectively unreasonable under the circumstances).

VI. CONTESTED ISSUES OF LAW. The contested issues of law, in addition to those implicit in the foregoing issues of fact, are: None.

VII. EXHIBITS. The following Order was made with respect to exhibits: Each party shall submit a proposed list of exhibits, along with a copy of each exhibit, to the opposing party no later than **January 28, 2005**. Within 3 days of such submittal, each side shall serve notice upon the other party of any objections to any such exhibits, whether to foundation or relevance. Any exhibits to which no objection is raised, shall be deemed to be admitted for all purposes, unless otherwise specifically noted and requested.

The parties shall submit a pre-marked set of exhibits to the court clerk in advance. Plaintiff's exhibits will be marked consecutively, numbers 1-____. Defendant shall identify trial exhibits beginning with the letter "A".

VIII. WITNESSES. In the absence of reasonable notice to opposing counsel to the contrary:

1. Plaintiff will call as witnesses: Dale Alma Bulkley; David Brewster; Davie L. Morrow; Steve Jones; Patrick Greis; and Dr. Cathey Putnam, M.D.
2. Plaintiff may call as witnesses: Steve Judkins; Denise Brewster; Jay W. Silcox, D.D.S.; and Dr. John A. Doane, M.D.
3. Plaintiff will use the following depositions: Deputy John Lee; Lt. Chris Bertram; Deputy J. Appleman; and any depositions identified by the Defendant.
4. In the absence of reasonable notice to opposing counsel to the contrary:

a) Defendant will call as witnesses: Deputy J. Lee, Lt. Chris Bertram, Salt Lake County Sheriff's Office; Deputy Jason Appleman, Salt Lake County Sheriff's Office;

b) Defendant may call as witnesses: David Brewster; Steve Judkins (Fire Captain, United Fire Authority); Jared Hardman, Salt Lake County Fire Department (currently, United Fire Authority); Clint Smith, Salt Lake County Fire Department (currently, United Fire Authority); Capt. Michael Jensen, Salt Lake County Fire Department (currently, United Fire Authority); Michael Leary, Investigator, Salt Lake County District Attorneys Office; Dr. D. Michael Edson; Dr. Bradford Hare, M.D.

5. In the event witnesses other than those listed are to be called to testify at the trial, a statement of their names, addresses, and general subject matter of their testimony will be served upon opposing counsel and filed with the court at least 10 days prior to trial (**January 24, 2005**). This restriction shall not apply to rebuttal witnesses whose testimony, where required, cannot reasonably be anticipated before the time of trial.

IX. REQUESTS FOR INSTRUCTIONS. This case is to be tried before a jury. Requests for instructions to the jury and special requests for voir dire examination of the jury shall be submitted to the court pursuant to DUCivR 51-1, and no less than ten (10) days before trial, **January 24, 2005**. Counsel may supplement

requested instructions during trial on matters that could not reasonably be anticipated prior to trial.

X. AMENDMENTS TO PLEADINGS. There were no requests to amend pleadings.

XI. DISCOVERY. Discovery has been completed. No further discovery will be allowed.

XII. STIPULATION. Plaintiff and Defendant hereby stipulate that Defendant shall not attempt to introduce character evidence regarding Mr. Bulkley. Either party may, however, offer character evidence if solely for impeachment. Defendant shall strike from their witness list the following witnesses: (1) Robert Dunyon; (2) Kandi Dunyon; (3) Ryan D. Salter; (4) Sgt. Keldon Brown; (5) Ted Payne; (6) Rosalie Payne; (7) Captain Karl Hirst; and (8) Penny L. Ashworth. In exchange for this Stipulation, Plaintiff has dismissed its Third Cause of Action (negligence) and Plaintiff's Fourth Cause of Action (intentional infliction of emotional distress).

XIII. TRIAL SETTING.

The case is set for a 3-day jury trial (**February 7-9, 2005**).

XIV. POSSIBILITY OF SETTLEMENT. Possibility of settlement is considered ____ good, ____ fair, X poor.

DATED this 1 day of Feb, 2005.

BY THE COURT:

Tena Campbell
Hon. Tena Campbell
United States District Judge

The foregoing Pretrial Order (prior to execution by the court) is hereby
adopted by:

PLAINTIFF:

[Signature]
Robert B. Sykes
Kevin M. Sheff
ROBERT B. SYKES & ASSOCIATES, P.C.
311 South State Street, Suite 240
Salt Lake City, Utah 84111
Attorneys for Plaintiff

01-31-05
Date

DEFENDANT:

[Signature]
Don Hansen
Nick D'Alesandro
Deputy District Attorneys
2001 South State Street, Room S3400
Salt Lake City, UT 84190-1200
Attorneys for Defendant

1/31/05
Date

alt

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00269

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Donald H. Hansen, Esq.
SALT LAKE COUNTY ATTORNEYS OFFICE
2001 S STATE ST STE 3400
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Mr. Robert B Sykes, Esq.
ROBERT B SYKES & ASSOCIATES
311 S STATE ST STE 240
SALT LAKE CITY, UT 84111-2320
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

105 FEB -21 P 2:47

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

BRYAN L. TRAVIS,

Plaintiff,

vs.

PARK CITY,

Defendant.

ORDER

Case No. 2:04 CV 462 TC

On July 9, 2004, this court ordered that the above-captioned matter be referred to United States Magistrate Judge Brooke C. Wells pursuant to 28 U.S.C. § 636(b)(1)(B). The order of reference is hereby withdrawn.

SO ORDERED this 1 day of February, 2005.

BY THE COURT:

Tena Campbell

TENA CAMPBELL
United States District Judge

30

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00462

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Bryan L. Travis
PO BOX 511503
SLC, UT 84151

Mark D. Harrington, Esq.
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ASST ATTORNEY GENERAL
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Camille N. Johnson, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
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PAUL M. WARNER, United States Attorney (#3389)
ROBERT C. LUNNEN, Assistant United States Attorney (#4620)
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 524-5682
Facsimile: (801) 524-6926

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FEB - 2 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARTIN RENE RASCON,

Defendant.

2:03 CR 961
CASE NO. ~~2:04 CR-0961~~ TS

ORDER TO DISMISS INDICTMENT

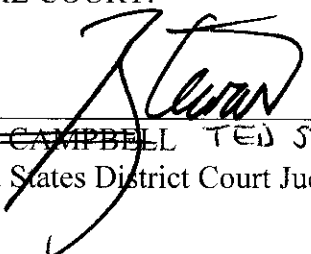
Judge Ted Stewart

Based on the Motion of the United States pursuant to Rule 48(a) of the Rules of Criminal Procedure,

IT IS HEREBY ORDERED that the Indictment entitled United States of America v. Martin Rene Rascon, Case No. 2:03-CR-0961-TS be dismissed without prejudice.

DATED this 3rd day of February, 2005.

BY THE COURT:


TENA CAMPBELL TED STEWART
United States District Court Judge

K

jmr

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cr-00961

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Robert C Lunnen, Esq.
US ATTORNEY'S OFFICE

,
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Vanessa M. Ramos-Smith, Esq.
UTAH FEDERAL DEFENDER OFFICE
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US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

FILED
CLERK U.S. DISTRICT COURT
2005 FEB -2 A 11:35

USA

Plaintiff,

vs.

James Russell

Defendant.

Order Directing **Briefing in Advance of**
Motion Hearing
DEPUTY CLERK

and

NOTICE OF HEARING

Case No. 2:04CR-00857 PGC

Counsel for the United States is **directed to file, ten days in advance of the motion to suppress hearing set for Tuesday, 03/08/2005 at 3:00 pm**, a statement of facts that it anticipates will emerge at the hearing, and cases supporting admission of the challenged evidence. This filing shall contain, at least, a chronology of events sufficient to permit defense counsel and the Court to prepare in advance for the factual and legal issues that are likely to emerge at the hearing. This filing may include police reports or other documents.

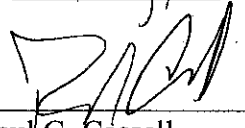
Counsel for the defendant may file a response to the filing of the United States two days in advance of the hearing. If the defendant's pleading is filed less than five days before the hearing, the defendant shall hand deliver or fax the pleading to the government and to the court.

Counsel are advised that the Court may, in its discretion, after hearing argument from counsel, rule from the bench concerning the challenged evidence, if the Court is sufficiently well advised of the facts and the law.

By directing this briefing schedule, the Court hopes to facilitate rapid decision on suppression issues. The Court invites feedback from counsel on the desirability of these procedures. **The trial date of 02/23/2005 is stricken.**

SO ORDERED.

DATED this 2nd day of February, 2005



Paul G. Cassell
United States District Judge

25

tsh

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00857

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. William L Nixon, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Karin Fojtik, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Mr. Ronald J. Yengich, Esq.
YENGICH RICH & XAIZ
175 E 400 S STE 400
SALT LAKE CITY, UT 84111
EMAIL

Bel-Ami J. de Montreux, Esq.
180 S 300 W #350
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB -21 A 11:35

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

DEAN BRADSHAW and CHRISTI
BRADSHAW

Plaintiffs,

vs.

LYNN HARKER, PAT HARKER,
WINSTON V. BEARD and BEARD ST.
CLAIR GAFFNEY McNAMARA CALDER
PA.

Defendants.

ORDER GRANTING MOTION FOR
CLARIFICATION

Case No. 2:03CV00714 PGC

Defendants Winston V. Beard and the law firm of Beard, St. Clair, Gaffney, McNamara Calder PA, have filed a motion for clarification of this court's order dated February 4, 2004. Plaintiffs have objected that the defendants motion is untimely, and not proper under Rule 60(b). The court finds that the motion is proper.

This court did not find any facts in its February 4, 2004 order for any purpose other than resolving the jurisdictional motion then before it. It is clear from the court's order that it was taking its facts from the complaint and in the light most favorable to the plaintiffs. The facts were in no way resolved finally, once and for all, for purposes of this litigation. Both sides remained free, during later stages of the litigation, such as a motion for summary judgment, to

32

dispute these facts. Defendants motion for clarification is therefore GRANTED (#29-1).

SO ORDERED

DATED this 2nd day of February, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Paul G. Cassell', is written over a horizontal line.

Paul G. Cassell
United States District Judge

tsh

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00714

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Robert L. Janicki, Esq.
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3 TRIAD CTR STE 500
SALT LAKE CITY, UT 84180
EMAIL

James S. Jardine, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

Mr. Mark A. Larsen, Esq.
LARSEN CHRISTENSEN AND RICO
50 W BROADWAY STE 100
SALT LAKE CITY, UT 84101-2006
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

United States District Court
District of Utah

2005 FEB -3 P 2:23

UNITED STATES OF AMERICA

vs.

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Carlos Flores-Julio
aka Carlos Julio-Flores

Case Number: **2:04-CR-00859-001 DAK**

Plaintiff Attorney: **Stanley Olsen, AUSA**

Defendant Attorney: **Robert Hunt**

Atty: CJA ___ Ret ___ FPD **X**

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: **12278-081**

Defendant's Residence Address: _____

February 2, 2005

Date of Imposition of Sentence

Defendant's Mailing Address: _____

Same

Country **USA**

Country **USA**

THE DEFENDANT:

☒ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

COP **02/02/05** Verdict _____

1 of the Indictment.

Title & Section

8 U.S.C. §1326

Nature of Offense

Re-entry of a Previously Deported Alien

Count

Number(s)

1

Entered on docket

2-3-05 by:

B. King
Deputy Clerk

☐ The defendant has been found not guilty on count(s)

☐ Count(s) _____ (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

1 month.

Upon release from confinement, the defendant shall be placed on supervised release for a term of

12 months.

☐ The defendant is placed on Probation for a period of _____

The defendant shall not illegally possess a controlled substance.

13

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall not illegally re-enter the USA. If the defendant returns to the USA during the period of supervision after being deported, he is instructed to contact the U.S. Probation Office in the District of Utah within 72 hours of arrival in the USA.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No Fine Imposed

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:
- _____

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other: _____

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

Defendant: Carlos Flores-Julio
Case Number: 2:04-CR-00859-001 DAK

Page 4 of 5

RECOMMENDATION

- ☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:
-

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

February 3, 2005

Dale A. Kimball

United States District Judge

Defendant: Carlos Flores-Julio
Case Number: 2:04-CR-00859-001 DAK

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00859

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Stanley H Olsen, Esq.
US ATTORNEY'S OFFICE

/
EMAIL

Robert K. Hunt, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

/
EMAIL

US Probation
DISTRICT OF UTAH

/
EMAIL

United States District Court

District of Utah

UNITED STATES OF AMERICA

vs.

Antonio Manuel Robison

aka *see list on page 4

(For Revocation of Probation or Supervised Release)
(For Offenses Committed On or After November 1, 1987)

Case Number: 2:99-CR-00204-001 DAK

Plaintiff Attorney: Leshia Lee-Dixon, AUSA

Defendant Attorney: Sharon Preston

Atty: CJA ☒ Ret ☐ FPD ☐

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: 07464-081

Defendant's Residence Address: _____

Country USA

February 2, 2005

Date of Imposition of Sentence

Defendant's Mailing Address: _____

Same

Country USA

COP 01/18/05 Verdict _____

THE DEFENDANT:

☒ admitted to allegation(s)

1-7

☐ pleaded nolo contendere to allegation(s)
which was accepted by the court.

☐ was found guilty as to allegation(s)

Violation Number

Nature of Violation

Date Violation Occured

1	Charged with Possession of a Forged Writing Device	Sept. 15, 2004
2	Failure to report arrest	Oct. 29, 2004
3	Submitted urine sample which tested positive for Methamphetamine	Oct. 14, 2004
4	Submitted urine sample which tested positive for cocaine	March 17, 2004
5	Submitted urine sample which tested positive for Amphetamine and Methamphetamine	Dec. 17, 2004
6	Failure to participate in substance abuse treatment	
7	Failure to submit to drug testing	Dec. 20 & 23, 2004

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) 8 (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

40

12 months and 1 day, to run concurrently with the sentence imposed in case 2:99-CR-00273-001 DAK.

Upon release from confinement, the defendant shall be placed on supervised release for a term of _____.

- ☐ The defendant is placed on Probation for a period of _____.
The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No Fine Imposed
-

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

-

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other:

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ _____, payable as follows:

☐ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

ALIASES USED BY THE DEFENDANT

The defendant is also known as the following aliases: Mr. Loco; Troy Martinez; Mr. Loco Mishenko; Dann Martinez; Danny Martinez; Anthony Mishenko; Antiono Robinson; Antonio Robison; Anton Robinson; and Evil Siko.

RECOMMENDATION

- ☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:
-

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

February 3, 2005

Dale A. Kimball

United States District Judge

Defendant: Antonio Manuel Robison
Case Number: 2:99-CR-00204-001 DAK

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:99-cr-00204

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Sharon L. Preston, Esq.
716 E 4500 S STE N142
SALT LAKE CITY, UT 84107
EMAIL

Leshia M. Lee-Dixon, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

United States District Court
District of Utah

UNITED STATES OF AMERICA

vs.

Antonio Manuel Robison

aka *see list on page 4

(For Revocation of Probation or Supervised Release)
(For Offenses Committed On or After November 1, 1987)

Case Number: **2:99-CR-00273-001 DAK**

Plaintiff Attorney: **Leshia Lee-Dixon, AUSA**

Defendant Attorney: **Sharon Preston**

Atty: CJA ☒ Ret ☐ FPD ☐

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: **07464-081**

Defendant's Residence Address: _____

Country **USA**

February 2, 2005
Date of Imposition of Sentence

Entered on docket

B. K... by:
2-3-05

Defendant's Mailing Address: _____

Deputy Clerk

Same _____

Country **USA**

COP **01/18/05** Verdict _____

THE DEFENDANT:

☒ admitted to allegation(s) **1-7**

☐ pleaded nolo contendere to allegation(s)
which was accepted by the court.

☐ was found guilty as to allegation(s)

Violation Number

Nature of Violation

Date Violation Occured

1	Charged with Possession of a Forged Writing Device	Sept. 15, 2004
2	Failure to report arrest	Oct. 29, 2004
3	Submitted urine sample which tested positive for Methamphetamine	Oct. 14, 2004
4	Submitted urine sample which tested positive for cocaine	March 17, 2004
5	Submitted urine sample which tested positive for Amphetamine and Methamphetamine	Dec. 17, 2004
6	Failure to participate in substance abuse treatment	
7	Failure to submit to drug testing	Dec. 20 & 23, 2004

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) **8** (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

150

12 months and 1 day, to run concurrently with the sentence imposed in case 2:99-CR-00204-001 DAK.

Upon release from confinement, the defendant shall be placed on supervised release for a term of _____

- ☐ The defendant is placed on Probation for a period of _____.
The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No Fine Imposed
-

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

-

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other:

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ _____, payable as follows:

☐ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

Defendant: Antonio Manuel Robison
Case Number: 2:99-CR-00204-001 DAK

Page 4 of 5

ALIASES USED BY THE DEFENDANT

The defendant is also known as the following aliases: Mr. Loco; Troy Martinez; Mr. Loco Mishenko; Dann Martinez; Danny Martinez; Anthony Mishenko; Antiono Robinson; Antonio Robison; Anton Robinson; and Evil Siko.

RECOMMENDATION

- ☐ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:
-

CUSTODY/SURRENDER

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE:

February 3, 2005


Dale A. Kimball
United States District Judge

Defendant: Antonio Manuel Robison
Case Number: 2:99-CR-00204-001 DAK

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:99-cr-00273

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH
,
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

Mr. Mark K Vincent, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Brett L. Tolman, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Sharon L. Preston, Esq.
716 E 4500 S STE N142
SALT LAKE CITY, UT 84107
EMAIL

Bel-Ami J. de Montreux, Esq.
180 S 300 W #350
SALT LAKE CITY, UT 84101
EMAIL

STEVEN B. KILLPACK, Federal Defender (#1808)
MARK S. KOURIS, Assistant Federal Defender (#6594)
Attorneys for Defendant
Utah Federal Defender Office
46 West 300 South, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010
Telefax: (801) 524-4060

FILED

U.S. DISTRICT COURT

RECEIVED - 3 - P 2:23

U.S. DISTRICT COURT

BY: DEPUTY CLERK

RECEIVED CLERK

FEB - 2 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

ALBERT LEE ROSS,

Defendant.

ORDER TO CONTINUE
JURY TRIAL

Case No. 1:04CR00003DAK

Based upon the motion of the Defendant, Albert Lee Ross, through his attorney of record, Mark S. Kouris, the Court hereby continues the trial date currently set for February 1, 2005, in the above-entitled matter to the 5th day of April, 2005, at 8:30a.m.

Pursuant to the Speedy Trial Act, 18 U.S.C. § 3161 et seq., the Court finds that the ends of justice served by a continuance in this case outweigh the best interest of the public and the Defendant in a speedy trial in order to afford counsel for the Defendant and the Government additional time in which to complete plea negotiations in an attempt to resolve the case short of trial.

Dated this 3rd day of February, 2005.

BY THE COURT:


DALE A. KIMBALL

United States District Court Judge

53

United States District Court
for the
District of Utah
February 3, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cr-00003

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Trina A Higgins, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Mark S. Kouris, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

FILED
CLERK U.S. DISTRICT COURT
2005 FEB 2 11 23
BY: [Signature]
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

PRISON LEGAL NEWS,

Plaintiff,

vs.

CAPT. KIM CHESHIRE, et al.,

Defendants.

**ORDER DENYING
PRELIMINARY INJUNCTION**

Case No. 1:04CV173DAK

This matter is before the court on Plaintiff Prison Legal News' Motion for Temporary Restraining Order and Preliminary Injunction. Defendants were given notice of Plaintiff's motion and the parties fully briefed the motion prior to the court's hearing on January 27, 2005. At the hearing, Plaintiff was represented by Brian Barnard, and Defendants were represented by Frank Mylar. Before the hearing, the court carefully considered the memoranda and other materials submitted by the parties. Since taking the matter under advisement, the court has further considered the memoranda, exhibits, and affidavits submitted by the parties, and the law and facts relevant to the motion. Now being fully advised, the court renders the following Order.

I. BACKGROUND

Plaintiff, Prisoner's Legal News, publishes and distributes a nation-wide, monthly magazine known as Prison Legal News ("PLN") that contains news articles regarding litigation trends, recent court rulings and other matters of interest to inmates and corrections officials. Plaintiff brings this action under 42 U.S.C. § 1983 seeking equitable relief from enforcement of Defendants' policies that prevent PLN from distributing its periodical to individual inmates.

PLN is mailed to prisoners through the United States Postal Service. The Cache County

27

Jail ("the Jail") has enacted rules and regulations governing inmates' receipt of and access to publications. Inmates at the Jail are not allowed to subscribe to magazines or newspapers on an individual basis and cannot receive magazines or newspapers through the United States mail. In October or November of 2004, an inmate at the Jail subscribed to PLN. The copy of the October 2004 edition of PLN that PLN mailed to the inmate was returned to PLN with a stamp on the front stating "RETURN TO SENDER UNAUTHORIZED MATERIAL" and hand-written words stating "CONTENT NOT ALLOWED."

Inmates at the Jail are notified when they enter the facility that they are not entitled to subscribe to periodicals. The Jail has a law library that contains periodicals, and inmates can check out periodicals from the library. A rule limits an inmate to five periodicals in his cell at one time. The Jail allows inmates to request certain subscriptions to be purchased by the Jail if they are not contrary to legitimate penological interests. The Jail also tries to monitor demand levels of the periodicals available in the law library. Prior to this lawsuit, Jail officials and administration were not aware of any inmate demand for PLN. However, the Jail now has two subscriptions to PLN available in the library. The materials in the library are the property of the Jail.

II. DISCUSSION

A. PRELIMINARY INJUNCTION

Plaintiff is moving for a preliminary injunction to require Defendants to suspend its rule regarding individual periodical subscriptions during the pendency of this litigation. In order to obtain preliminary injunctive relief, the moving party must establish:

- (1) a substantial likelihood that the movant will eventually prevail on the merits;
- (2) a showing that the movant will suffer irreparable injury unless the injunction issues; (3) proof that the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) a showing

that the injunction, if issued, would not be adverse to the public interest.

SCFC ILC, Inc. v. Visa USA, Inc., 936 F.2d 1096, 1098 (10th Cir. 1991). Because a preliminary injunction is an extraordinary remedy, the “right to relief must be clear and unequivocal.” *Id.*

A preliminary injunction that alters the status quo, as in this case, is disfavored and Plaintiff must meet the heavier burden of demonstrating that the four factors weigh “heavily and compellingly” in its favor before an injunction may issue. *See Kikumura v. Hurley*, 242 F.3d 950 (10th Cir. 2001); *Visa*, 936 F.2d at 1098-99.

1. Likelihood of Success on the Merits

Defendants assert several penological interests to justify its policy proscribing individual subscriptions to periodicals, and Plaintiff argues that none of those interests are sufficient to warrant the policy’s intrusion on inmates’ First Amendment right. The United States Supreme Court has determined that “when a prison regulation impinges on inmates’ constitutional rights, the regulation is valid if it is reasonably related to penological interests.” *Turner v. Safley*, 482 U.S. 78, 89 (1987). The *Turner* Court set forth a four-part test for courts to consider in determining the constitutionality of such policies: “(1) whether a valid and rational connection exists between the regulation and the asserted legitimate governmental interest; (2) whether alternative means of exercising the constitutional right remain available to inmates; (3) any effect accommodating the right would have on guards and inmates; and (4) the absence of ready alternatives.” *Jacklovich*, 392 F.3d at 426 (citing *Turner*, 482 U.S. at 89-90).

Before even getting to the *Turner* test, Defendants contend that the court must determine the property and expressive rights prisoners retain as part of their normal incidents of incarceration and how these rights affect a publisher’s rights to free expression. Many of the liberties and privileges enjoyed by other citizens must be surrendered by the prisoner. In *Sandin*

v. *Conner*, 515 U.S. 472 (1995), the Supreme Court mandated that courts must review property and liberty interest claims arising from prison conditions by asking whether the prison condition complained of presents “the type of atypical, significant deprivation in which a State might conceivably create a liberty [or property] interest.” Defendants argue that the loss of magazine subscriptions is not an “atypical, significant deprivation,” but an inherent consequence of incarceration.

However, the Tenth Circuit’s recent decision in *Jacklovich v. Simmons*, 392 F.3d 420 (10th Cir. 2004), acknowledges that “[i]nmates have a First Amendment right to receive information while in prison to the extent the right is not inconsistent with prisoner status or the legitimate penological objectives of the prison.” *Id.* at 426. The court reasoned that “resolution of the inmates’ claims requires balancing between the constitutional rights retained by inmates and those who send them publications against the deference owed to prison authorities when it comes to prison administration.” *Id.* Therefore, the court implicitly recognized that there are certain First Amendment rights to information that do survive incarceration and those rights apply equally to those who send inmates publications. *See also Thomas v. Leslie*, 176 F.3d 489 (10th Cir. 1999) (unpublished decision) (finding total ban on newspapers in a Kansas county jail unconstitutional).¹

The *Jacklovich* court further explained that “[i]n weighing the First Amendment interests against the deference afforded corrections officials, the reasonableness of the regulations and

¹ Although not binding because it was not decided by the Tenth Circuit, in *Brooks v. Seiter*, 779 F.2d 1177 (6th Cir. 1985), the court equated personal subscriptions to personal correspondence. The court stated that “[t]he sender’s interest in communicating the ideas in the publication corresponds to the recipient’s interest in reading what the sender has to say. These interests are not undercut by the fact that a subscription also represents a commercial transaction. . . . We can perceive no principled basis for distinguishing publications specifically ordered by a prison inmate from letters written to that inmate for purposes of first amendment protection.”

policies matter.” *Id.* “Although the Court has continually recognized (1) the difficulty of running a prison, (2) the separation of powers concerns when a federal court assumes a function (prison administration) entrusted to the legislative and executive branches, and (3) the need for federal courts to accord deference to state prison authorities, those factors do not mean that every prison regulation is insulated from review no matter what the facts may be.” *Id.* (citation omitted). Therefore, as in *Jacklovich*, the court concludes it may properly proceed to analyze the issue using the *Turner* factors.

Plaintiff argues that access to a jail library is not an adequate substitute for individual subscriptions to magazines and newspapers. Plaintiff complains that there are too few periodicals in the Jail’s law library for the number of inmates housed at the Jail. However, Plaintiff does not provide any evidence of the allegation. Moreover, the Jail has provided an Affidavit stating that it monitors the demand for publications in the library and it allows inmates to request publications. There is no evidence in the record that the Jail’s system does not fulfill inmates’ demands for periodicals.

In addition, Plaintiff contends that there are reasonable and ready alternatives available to Defendants short of a total ban on individual subscriptions to periodicals. Plaintiff points to the Salt Lake County Jail as an example of a jail that allows individual inmates to subscribe to periodicals and regulates its policy through additional rules. The Salt Lake County Jail allows inmates to have only one edition of the newspaper in his possession at any time and mandates that the newspaper not be cut up or torn. In this case, Plaintiff argues that Defendants already have in place various rules dealing with content, security, and volume of mail that may be received and kept by an inmate. Those rules, Plaintiff asserts, deal with any real or perceived problem that may occur as a result of inmates receiving personal pre-paid periodical

subscriptions.

In response, Defendants argue that it is entitled to make its own policies and rather than look to the policies of other jails, this court must focus on the policies of the Cache County Jail. In addition to safety concerns, Defendants cite concerns with the administrative burdens individual subscriptions would place on jail officials, especially given the short stay of most inmates at the Jail. The court recognizes that there are inherent differences in jail populations and circumstances. And, this court must accord deference to the professional judgment of corrections administrators in reviewing regulations. *Overton v. Bezzetta*, 539 U.S. 126, 132 (2003). Furthermore, alternatives "need not be ideal; however, they need only be available." *Overton*, 539 U.S. at 135.

Plaintiff cites to cases in which individual subscriptions were allowed when the jail also had a law library. But, in those case, the court was addressing the validity of a "publishers only" restriction on those individual subscriptions, not whether prisoners were constitutionally entitled to individual subscriptions. *See Bell v. Wolfish*, 441 U.S. 520, 552 (1979). Whether a right exists to individual subscriptions is necessarily a different issue than the appropriate regulation of the right after such right has been granted by the jail. Nevertheless, the court does agree that it is persuasive these cases appear to implicitly recognize that there is an underlying right to individual subscriptions.

Defendants claim that jail libraries like the Cache County Jail's library have been upheld as a constitutional alternative when inmates were denied subscriptions. *See Hause v. Vaught*, 993 F.2d 1079 (4th Cir. 1993); *Dawson v. Scurr*, 986 F.2d 257 (8th Cir. 1993); *Johnson v. Hunter*, 192 U.S. App. LEXIS 34743; *Manning v. Abramajty*s, 1992 U.S. App. LEXIS 5059. In *Hause v. Vaught*, 993 F.2d 1079 (4th Cir. 1993) an inmate challenged a detention center's

policy based on cases such as *Bell* that have upheld a publishers-only rule as constitutional. The *Hause* court found that "[n]either the Supreme Court nor this court, however, has ever held that a publishers-only rule is a minimum constitutional standard. We decline to do so here." *Id.* at 1083. Noting that the inmate failed to consider "a central principle implicit in the *Turner* analysis," the court reasoned that *Bell* and *Turner* "emphasize the deference owed to prison administrators in their management of penal facilities." Because of the inmates short stays at the detention center, the court concluded that "a publishers-only rule would not constitute an alternative to the Detention Center's ban on publications because such a rule would not have meaningfully enhanced the inmates access to information and ideas."

Plaintiff concedes that it would be reasonable for the Jail to have a ban on individual subscriptions for inmates who will not be at the Jail for longer than thirty days. Plaintiff also argues that the jail can shift much of the burden onto the inmate with respect to canceling or forwarding the subscription. Plaintiff noted at the hearing on this matter that the focus of its motion is for long-term inmates. Therefore, *Hause* may be inapplicable to Plaintiff's more limited request tailored to only long-term inmates.

Defendants' response at the hearing was that there is no evidence in the record as to inmate stays, except for the statistic that the average length of stay is 30 days. Given the short average stay, a monthly periodical may not be administratively possible. In any event, there is not adequate evidence before the court as to the nature of inmate stays that would allow the court to properly apply the *Turner* factors to the case before it.

In another case cited by Defendants for the proposition that law libraries have been deemed adequate, *Dawson v. Scurr*, 986 F.2d 257 (8th Cir. 1993), the issue was whether a ban on sexually explicit materials in an individual inmate's cell was constitutional. The court concluded

that access to such materials in a reading room was constitutionally adequate. *Id.* at 261.

Although the court in that case found access to a reading room adequate, the court recognizes that access to sexually explicit materials and prisoner litigation summaries involves a different analysis based on the content of the materials.

In reversing the district court's granting of summary judgment in favor of the state corrections officials, the *Jacklovich* court found that there were questions of fact as to each of the four *Turner* factors. 392 F.2d at 428-29. Similarly, in this case, the parties present competing facts and arguments that raise questions of fact as to the four *Turner* factors. The court finds Plaintiff's arguments persuasive. However, Plaintiffs' case suffers from a lack of evidence at this stage. Furthermore, because of the parties' competing facts and arguments, as well as the balancing required between Plaintiff's rights and the Jail's penological interests, the court cannot conclude that Plaintiff has established a likelihood of success on the merits under the "heavily and compelling" standard required for a preliminary injunction in this case.

B. Other Elements

In support of its motion for a preliminary injunction, Plaintiffs also argue that inmates' First Amendment rights will continue to be irreparably harmed without injunctive relief, such harm to their constitutional rights outweighs any minimal injury Defendants could face, and the vindication of constitutional freedoms and the protection of First Amendment rights are in the public interest.

However, because the court has concluded that there is a question of fact as to whether the Jail's policy infringes Plaintiff's First Amendment rights, the court cannot conclude that the potential harm to those rights outweighs the harm to Defendant's interests in maintaining a safe and secure jail. In addition, both competing interests—Plaintiff's First Amendment rights and the

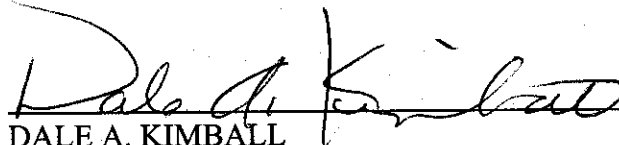
Jail's maintenance of a safe and secure jail—impact the public interest. Therefore, the court must conclude that Plaintiff has not met the heavy and compelling standard required under the remaining elements for injunctive relief. Accordingly, Plaintiff's motion for preliminary injunction is denied.

III. CONCLUSION

For the foregoing reasons, Plaintiff's motion for a preliminary injunction is DENIED.

DATED this 3rd day of February, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Dale A. Kimball", is written over a horizontal line.

DALE A. KIMBALL
United States District Judge

United States District Court
for the
District of Utah
February 3, 2005

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Re: 1:04-cv-00173

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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Central Division for the District of Utah

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DEPUTY CLERK

Jeannine Slaymaker

JUDGMENT IN A CIVIL CASE

v.

JoAnne Barnhart, Commissioner of
Social Security

Case Number: 2:04cv177 SA

IT IS ORDERED AND ADJUDGED

that the decision of the Commissioner is affirmed and plaintiff's cause of action is dismissed.

Entered on docket

2/3/05 by:

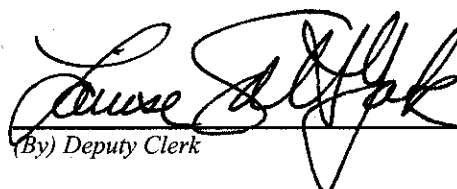
ce
Deputy Clerk

February 3, 2005

Date

Markus B. Zimmer

Clerk


(By) Deputy Clerk

14

United States District Court
for the
District of Utah
February 3, 2005

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Re: 2:04-cv-00177

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